R9372-2

Refugee Reports

A News Service of the U.S. Committee for Refugees
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Volume XII, Number 11 **November 29, 1991**

HAITIAN INTERDICTION CRISIS ERUPTS

For the first month after the ouster of Haitian President Jean Bertrand Aristide, Haitians stayed put. Aristide would return--so said the rumors circulating around the Haitian capital of Port-au-Prince and the rest of the country--maybe tomorrow, perhaps the next day.

But he didn't return. Instead, Haitian army and security forces conducted large-scale searches for supporters of Aristide and began general repression of the population. Since Aristide's ouster on September 29, Amnesty International has reported "hundreds of extrajudicial executions, beatings, and widespread arbitrary arrests."

The U.S. embassy in Port-au-Prince itself noted on October 28 "credible reports of indiscriminate killings, police harassment, illegal searches and looting of private homes and of radio stations, arrests without warrants, and detention of persons without charges and mistreatment of persons in the custody of Haiti's de facto authorities."

The exodus began on October 28 with a boatload of 19 persons. By November 25, the number had grown to 4,530.

Of that number, about 3,600 were on U.S. Coast Guard or Navy vessels in international waters of the Caribbean or at the U.S. Navy base at Guantánamo Bay, Cuba; 120 had been screened in to the United States to pursue asylum claims; and 351 were transferred to Venezuela and Honduras.

Originally set up to accommodate 2,500 Haitians, the camp at Guantánamo is being expanded to hold 10,000. Conditions at the tent camp are basic, and the Haitians housed there are given military-issue meals-ready-to-eat (MREs) twice per day. The atmosphere in the camp is reportedly tense.

Conditions for the approximately 250 Haitians in Honduras are also said to be harsh. They are being held in a school building surrounded by barbed wire and guarded by soldiers, according to reports.

[At press time, the number of Haitians picked up by the Coast Guard had grown from 4,530 to 6,372. More than 4,000 were being housed at the Guantánamo camp.]

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Coast Guard Return of Hundreds to Haiti Precipitates International Protests On November 18 and 19, the Coast Guard returned two boatloads totaling 538 people to Port-au-Prince. The action sent a shock wave through the United States and the world.

Madame Sadaka Ogata, the UN High Commissioner for Refugees (UNHCR), who had worked from the outset to seek a solution for the Haitian boat people involving regional burden sharing, issued a statement on November 19 saying UNHCR "regrets that the U.S. government has decided to proceed unilaterally and return a number of asylum seekers to Haiti."

The High Commissioner said, "Having had no access to those being returned, UNHCR is not in a position to comment on the validity of the claim for asylum made by the Haitians."

International criticism of the interdiction policy predated the forced returns. On October 4, the Inter-American Commission on Human Rights requested the United States "to suspend its policy of interdiction of Haitian nationals, who are being sent back to Haiti, because of danger to their lives, until the situation in Haiti has been normalized."

Also, on November 11, prior to the first repatriations, UNHCR had called on the United States to "allow all of the individuals now on board [U.S. Coast Guard] vessels to be disembarked in the United States and admitted for determination of their refugee status."

President Bush Defends Policy of Interdiction and Return On November 20, President Bush commented publicly for the first time on the issue, saying, "It is a fair policy." The policy, he said, "does make a distinction between economic refugees and political refugees. but let me assure you, it is not based on some race or double standard."

The potential immigration impact of a larger flow and deterring more boat departures appeared to be among the President's prime concerns. "I'm saying that I don't want to have a policy that acts as a magnet to risk these people's lives," he said.

Judge Orders Temporary Halt to Forced Return of Haitians On November 19, within two hours of the second Coast Guard cutter offloading interdicted Haitians to Port-au-Prince, a federal judge in Miami issued a temporary restraining order (TRO) to prevent further forced returns.

The TRO came as a result of a suit brought by the Haitian Refugee Center (HRC) in Miami. The suit claimed that the return of Haitians under present circumstances violates the Presidential Proclamation and Executive Orders of September 29, 1981 that established the Haitian Interdiction operation, which has resulted in the return of more than 25,000 Haitians since that time. The Executive Order states that "no person who is a refugee will be returned without his consent."

The HRC complaint requested the injunction "until the INS has followed its own rules setting forth procedures to identify and protect those who are potential refugees."

The descriptive heart of the HRC complaint noted that only eleven immigration officers [the INS said 12 at the House hearing] had been assigned to interview more than 1,500 interdicted Haitians. "According to INS officials," said the complaint, "interviews consisted of a few minutes of questioning concerning the Haitian's identity and whether there was any reason he or she could not go back to Haiti. The interviews were not conducted in privacy and under other conditions required by guidelines, and were otherwise insufficient given the conditions under which the interviews took place."

The HRC complaint alleged that several of the Haitians, including babies, children, and pregnant women, were ill and had high fevers, and that many of the Haitians were seasick, having spent several days at sea in rough waters. "The Haitians were exposed to extreme temperatures on the deck of the Coast Guard vessels, where they were not sheltered or only partially sheltered, from sun, rain, and wind and cold," it charged. "The Haitians were exhausted, and were in too much physical and mental distress to understand the import of the interviews or become aware of their rights."

U.S. District Judge Donald L. Graham, a Bush appointee, issued the TRO on November 19 pending a hearing to determine "whether Plaintiff has standing to file suit on behalf of the Haitians

Supporters of deposed Haitian president Jean-Bertrand Aristide protest after an attempted coup against Aristide earlier this year.

that have been intercepted by the United States Coast Guard." The injunction precludes the U.S. government "from continuing to repatriate Haitians currently on board U.S.-flagged vessels and Haitians currently being held on land under United States' control and at Guantánamo Bay, Cuba until further notice."

Government lawyers worked feverishly to vacate the TRO. However, on November 21, Judge C. Clyde Atkins of the U.S. District Court for Southern Florida denied the government's motion, and further ruled that HRC lawyers would be able to take depositions of persons aboard Coast Guard cutters and at Guantánamo Naval Base.

The next day, the Eleventh Circuit Court of Appeals dismissed another of the government's legal actions (a writ of mandamus) seeking to vacate the District court's TRO.

On December 3, Judge Atkins issued a preliminary injunction maintaining the bar to forced repatriation of the Haitians and gave the Administration one week to show how it would "implement and follow procedures such as those contained in the INS guidelines to ensure that Haitians with bona fide political asylum claims are not forced to return to Haiti."

The Administration is appealing the injunction.

Danger on the High Seas A note of warning was sounded at a November 20 hearing before the House Subcommittee on International Law, Immigration, and Refugees, when Coast Guard Rear Admiral William P. Leahy, Jr. said that despite increasing the number of cutters in the Caribbean from 7 to 15, that at the present rate of boat departures and under the constraints of the restraining order, "our ships will be loaded to capacity in about two days. Once we reach this point, we will not be able to continue our recovery operations unless we can offload those we have recovered."

At the same hearing, Ambassador Robert Gelbard, deputy assistant Secretary of State for Inter-American Affairs, said, "As long as that order remains in effect, we expect it will encourage Haitians to continue to go to sea in small, dangerous boats, and we fear it will lead to loss of life."

On November 22, Cuba's official news agency, AIN, reported that at least 16 Haitian bodies had been recovered and another 119 presumed dead after a boat with more than 200 Haitians aboard capsized in rough seas.

Return to Safety or Danger? Ambassador Gelbard assured the House panel that "no Haitian is being repatriated without a careful interview that gives him or her a chance to describe circumstances that might justify an asylum claim."

Gelbard also said that the U.S. embassy in Port-au-Prince "is observing the repatriations" and that "our embassy will remain in contact with local and international human rights and humanitarian organizations to see if there is any evidence that these people are mistreated after their return."

Rep. Howard Berman (D-Cal.) asked Gelbard on what basis the State Department had been able to express its confidence earlier in the week that those returned to Haiti would not be harmed by those in power in Haiti.

Gelbard replied that the decision to repatriate people was based on a sense that those returned "did not have political backgrounds, on the basis of the extensive interviews conducted with the INS."

"On the boats?" Berman interrupted incredulously. He commented on the packed boats and wondered aloud how that could allow for a fair application. But he pressed Gelbard to answer his previous question about repatriation.

"The Haitian Red Cross was consulted," said Gelbard, "and held discussions with the de facto regime in Haiti, and received sufficient assurances that the process went ahead." He added that previous repatriations had occurred with a wide range of nondemocratic regimes in Haiti without reprisals and that "we have no— record of any reprisals against Haitians who have returned."

Under further questioning by Berman about U.S. capability to monitor conditions of returnees, Gelbard acknowledged that the staff of the U.S. embassy was "very reduced at this time," but that we are attempting to monitor the situation "in conjunction with private voluntary organizations, human rights groups operating in Haiti, the Red Cross, and other embassies."

Berman summed up, saying, "So it is fair to say then that what you have said is that the assurances you received were indirect. They came through the Haitian Red Cross based on their contacts with the Haitian rulers at the present time and not on our own direct contacts. And that the monitoring of the conditions of the people repatriated will be done as much as possible by the embassy, but with a great deal of reliance on voluntary organizations, human rights groups, and other organizations in Haiti."

Gelbard answered affirmatively.

Berman then asked INS Commissioner Gene McNary to describe the interview procedures on the boats.

McNary started by saying, "Conditions are not optimal." He said that there are 12 teams. Each includes an INS examiner and Creole interpreter. He said that all of the adjudicators were specially trained. He said that they give an introductory briefing for the applicants explaining the purpose of the interviews. He estimated that each "in-depth interview" lasts about 20 minutes. If a credible claim from that interview is made, said McNary, then they will have a hearing under better conditions.

McNary added, "The situation is one in which economic conditions in Haiti are deplorable. People for the most part are leaving for economic reasons, and they tell our interpreters just that."

Private Witnesses Challenge Reliance on Haitian Red Cross Jocelyn McCalla, executive director of the National Coalition for Haitian Refugees, challenged the U.S. reliance on the Haitian Red Cross as an unbiased source of information on conditions for returnees.

"The head of the Haitian Red Cross was, in fact, recently appointed by the illegal government," he told the House panel. "He was the resident doctor of the most infamous prison in Haiti, known as Fort Dimanche, and as the resident doctor we have no evidence that he acted to protect the political prisoners there."

Arthur Helton, director of the Refugee Project of the Lawyers Committee for Human Rights, added that his organization had received a fax from Haiti on the morning of the hearing containing reports from a Haitian human rights group about threatened arrests and actual arrests of people on the ground who were planning to take small boats from Haiti.

"There are indications that there are serious problems that Haitian boat people would face if they were returned at this point," Helton said. "And we have no confidence that the bland assurance given by the State Department is a good justification at this juncture."

On November 20, Amnesty International issued an urgent action appeal on behalf of the 538 returned Haitian asylum seekers. AI rejected the State Department's claim that the returnees would not face persecution. "In light of the current disturbances and widespread and severe human rights violations in Haiti," Amnesty said, it "is seriously concerned that those who have tried to leave the country following the coup could be perceived as government opponents and, as such, become targets for abuses perpetrated by the security forces and armed civilians acting with them."

Amnesty further noted that in past years it "knew of several cases where asylum seekers who had been refused asylum in the United States and returned to Haiti were imprisoned and in some cases ill-treated on their return."

Racism Charged Most of the members of Congress who participated in the House hearing either as witnesses or as members of the subcommittee pointed out the disparity in the treatment of Haitians. Several members of Congress charged that the policy was outright racist.

A comment by INS Commissioner McNary that he was offended listening to the panel of Congressmen charging the Administration with racism touched off the most heated exchange of the day.

"Let me take this opportunity to say that we work hard at being consistent and uniform and even-handed," McNary declared. "And any reference to a racial discrimination here is offensive to all the people involved in INS who work hard to make sure that we treat every nationality the same."

Rep. Charles B. Rangel (D-N.Y.) leapt in to say that he wanted it make it known "loud and clear that the policy is racist."

He asked McNary, "Is there any question in your mind that if the people on these boats came from Ireland that we would exercise the same policy, notwithstanding the law, if the same situation existed in Ireland with this ragtag, crooked, violent group of gangsters who call themselves soldiers, do you think for one minute that the United States of America would return these Irish people to Ireland?"

"Congressman," responded McNary, "that's even an offensive question. We return everyone who is supposed to be returned under the laws of the United States of America."

Legislative Responses Members of Congress have been active on several fronts to try to influence the course of events.

Rep. Dante B. Fascell (D-Fla.), chairman of the House Foreign Affairs committee, testified at the hearing that "on October 15, 1991, my colleagues and I from south Florida wrote acting Attorney General Barr urging him to grant Temporary Protected Status (TPS) to Haitians already in the United States and facing deportation."

Turning up the heat a notch, Rep. Rangel (D-N.Y.) and Sen. Connie Mack (R-Fla.) introduced concurrent resolutions (H. Con.Res. 220 and S.Con.Res. 71) calling upon the Administration to suspend deportation of Haitians in the United States, to grant them TPS, and to stop interdictions. Rangel's resolution also called upon the Coast Guard to rescue Haitians at sea and bring them safely to U.S. shores.

On November 22, Rep. Romano L. Mazzoli (D-Ky.), who chaired the House hearing, introduced a bill that would protect Haitians from involuntary repatriation "until the President certifies to the Congress that a democratically elected government is securely in power in Haiti." The bill would also reallocate 2,000 federally funded refugee admissions places for FY 92 to Haiti. Finally, Mazzoli's measure would designate Haiti as a country under TPS beginning the day of enactment of the law and effective for one year.

A bill introduced in the Senate on November 26, 1991 (S. 2091) by Sen. Dennis DeConcini

(D-Ariz.) also seeks TPS designation for Haiti. The bill provides for Haitians "who are in the custody or control of the United States (including on Coast Guard vessels on the high seas) as of November 26, 1991" to be considered to meet the physical presence requirement for TPS. A separate bill, S. 2026, introduced by Sen. Connie Mack (R-Fla.) calls for TPS designation for Haiti, but also seeks the reallocation of 2,000 federally funded refugee admissions to Haiti for FY 92.

Because Congress is in recess from Thanksgiving until late January, no action can be taken on the measures that have been introduced. Thus, in the short term, the legislative initiatives will not have a direct bearing on the course of events.

Recent Developments

FAILURE TO ENACT FOREIGN AID BILL MEANS FUNDING PROBLEMS FOR REFUGEES

Refugee advocates are concerned that the refugee resettlement program and assistance to refugees and other vulnerable groups overseas will suffer as a result of legislation stalled in Congress.

On October 28, 1991, President Bush signed into law a continuing resolution (CR) that limits FY 92 spending on foreign aid to FY 91 levels. The five-month CR that expires on March 31, 1992, affects funding for Migration and Refugee Assistance (MRA), which includes funds for the U.S. refugee resettlement program and for aid to refugees overseas.

Although the House of Representatives passed the foreign aid bill, H.R. 2621, President Bush asked Congress to defer further action due to controversy over an Israeli request for $10 billion in loan guarantees. Congress agreed to postpone further action on the bill, and passed the CR so that operations could continue at FY 91 levels.

A coalition of refugee agencies were unsuccessful in urging Congress to make an exception to the CR by funding refugee and other humanitarian programs at the higher levels approved by the House in H.R. 2621.

Vital New Monies for Refugees Could Be Lost The proposed MRA budget for FY 92 in H.R. 2621, $630 million, represented an increase of $140 million over the FY 91 MRA budget. The Administration had requested $490 million (an increase of only $4.4 million over FY 91 expenditures) for MRA for FY 92, but the House had added an additional $140 million to the budget. Refugee advocates, who after years of encouraging Congress to make available increased funds for refugees had finally won a small victory, are disturbed that the proposed extra funds may be lost. They say that the $140 million is vital in order to meet the basic survival needs of growing numbers of refugees overseas, and to meet the cost of resettling the increased number of refugees that the Administration proposed to admit in FY 92. "Years of effort and improved lives for many have gone down the drain," said Roger Winter, director of the U.S. Committee for Refugees.

It is possible that Congress and the Administration could reach an agreement on the foreign aid bill for the second half of FY 92. But even if that happens, it does not mean that the $140 million would be restored. It is possible that, since 6 months of the fiscal year would be gone, only half that amount would be appropriated. In that case, $70 million for refugee assistance would be lost.

It is also possible, however, that Congress and the Administration might not agree to any foreign aid appropriation. The issue of loan guarantees to Israel could continue to block enactment of the foreign aid bill; also, "America first" anti-foreign aid sentiment could affect thinking on both Capitol Hill and in the White House, particularly in an election year. If an agreement on the bill is not worked out, the CR could be extended to cover the rest of FY 92, in which case the entire $140 million would be lost.

U.S. Support for Refugees Has Been Diminishing Funds for aid to refugees overseas, which are channeled through organizations such as the UN High Commissioner for Refugees (UNHCR) and the International Committee of the Red Cross (ICRC), are in the same MRA budget as funds used for the initial resettlement of refugees admitted to the United States through the refugee resettlement program. Since the proposed number of admissions for FY 92 is 11,000 more than the number of actual admissions in FY 91, but the amount of money available as a result of the CR is only the same amount that was available in FY 91, aid to refugees overseas could actually diminish in FY 92.

"Despite widespread misconceptions to the contrary," Winter said, "U.S. financial support to vital programs such as those of UNHCR and ICRC has declined significantly in the last ten years, contributing to major retrenchments in services for refugees, displaced people, and war victims worldwide. By adopting a CR and not exempting funds for humanitarian programs, the Administration, House, and Senate have done great damage to many people."

Other Humanitarian Programs Affected
Programs for refugees are not the only humanitarian initiatives affected by the CR. According to Tony Gambino, public policy analyst with the American Council for Voluntary International Action (InterAction), also at risk are: programs for children (including U.S. support for UNICEF, bilateral programs in support of child-survival activities, activities relating to AIDS, and programs to tackle vitamin A deficiency); programs for women (including women in development programs, funding for the UN Development Fund for Women and UN International Research and Training Institute for the Advancement of Women, and activities by the U.S. Agency for International Development (AID) to integrate women into their programs; bilateral population programs; and development funds for Africa. InterAction members were among those who urged Congress--unsuccessfully--to make an exemption from the FY 91 spending limits for humanitarian programs.

SUPREME COURT CONSIDERS FORCED RECRUITMENT AS BASIS FOR ASYLUM

On November 4, the U.S. Supreme Court heard oral arguments in a case involving an 18-year-old Guatemalan who fled his country in 1987 after having refused to join guerrillas who came to his home carrying machine guns and wearing masks.

Jairo Jonathan Elias Zacarias testified that the guerrillas told him to think over his decision carefully, and that they would return. After fleeing Guatemala, his father wrote to tell him that the guerrillas had twice returned to his home searching for him. The letter from his father was the basis for a motion to reopen the case after he had been denied asylum by an immigration judge and his appeal to the Board of Immigration Appeals (BIA) had been dismissed.

The Ninth Circuit Court of Appeals ruled that Zacarias had indeed established eligibility for asylum because of the threat of forced recruitment. The court held that the threat to Zacarias was on account of his political opinion since "the person resisting forced recruitment is expressing a political opinion hostile to the persecutors and because the persecutor's motive...is political."

The Solicitor General, in petitioning the Supreme Court, said that the issue to be judged was "whether a guerrilla organization's attempt to coerce a person into performing military service necessarily constitutes persecution 'on account of' that person's political opinion."

Government Argues That Intent of Persecutors Is "Controlling" Factor In her argument before the Court, Deputy Solicitor General Maureen E. Mahoney said that the term "persecution" implies a motive to inflict injury to punish a person for his political beliefs, and that there is nothing in the record from which to infer that the guerrillas intended to punish Zacarias for his political beliefs. "Their purpose was to field an army, and to punish people for their refusal to serve, not for their political opinions," she said.

Associate Justice Sandra Day O'Connor asked whether an applicant for asylum can demonstrate a well-founded fear of persecution "even if the actual motive [of the persecutor] may be something he can't prove." Mahoney said that in such a case, the BIA would have to draw an inference from the facts of the case. But, she added, "No reasonable inference can be drawn from this record."

Associate Justice Anthony Kennedy observed that Zacarias fled after an initial approach by the guerrillas, but said that his fear of persecution was based on what the guerrillas might do in the future. He asked if a fear of death upon return would be sufficient to establish a well-founded fear of persecution. Mahoney said it would not. She said that the key, the controlling factor, was "whether the purpose was to persecute, to punish someone for his political beliefs."

Mahoney said that there was "no objective evidence" in the record that Zacarias would be executed upon return. She said that the Ninth Circuit finding that he had a well-founded fear of being kidnapped [as the guerrillas' form of forced recruitment] "did not support a claim of being singled out."

Fear of Harm or Political Opinion? Associate Justice Byron White asked whether Zacarias's refusal to join the guerrillas because he did not want to go against the government could be interpreted as a political opinion.

Mahoney answered that Zacarias did not express sympathy with the policies of his government, but only expressed fear of harm should he oppose the government. Even if Zacarias did have a political opinion, she said, this fact would not justify the inference that the guerrillas intended to persecute him for it. "The belief in the mind of the persecutor is controlling," she declared.

Associate Justice Antonin Scalia challenged that assertion, saying that the definition of a "well-founded fear" was based foremost on the state of mind of the asylum applicant.

Associate Justice David Souter said that although the purpose of the Refugee Act might have been to protect conscientious dissidents, it could protect others as well if persecutors intended to persecute them for imputed political opinions.

Mahoney agreed that others could be protected if the persecutors believed them to be members of a group they intended to persecute. She said that the asylum applicant needed "to show a political opinion that has come to the attention of the authorities." She added that this was a matter of evidence to be determined by the Board of Immigration Appeals. At other points, White, Scalia, and Chief Justice William Rehnquist each questioned why the Ninth Circuit seemed to be deciding a matter of evidence.

Associate Justice Harry Blackmun stressed what it must be like to be a 17-year-old faced with two guerrillas with machine guns. He observed that although the statute requires a well-founded fear of persecution on account of political opinion, the political opinion should be his beliefs at the time he applies for asylum, no matter what his attitude was at the time of conscription.

Singling Out Associate Justice John Paul Stevens asked if the claim would be supported by objective evidence that the guerrillas punished others in the same situation.

Mahoney said that there was no indication that the punishment was being inflicted differently based on political opinion. The punishment, she reiterated, was for refusal to join, not political opinion. She cited an earlier court opinion that punishment of a conscientious objector in the United States for his refusal to join was not a punishment for the objector's political opinion, but rather simply for his refusal to join, the purpose of the government being to field an army.

Scalia asked if that was all the law requires--that a guerrilla group would be able to make everyone from its country eligible for asylum in the United States with a declaration that "he who is not for us is against us."

Mahoney said that such a declaration would not be the same as saying, "We will punish you for your political beliefs." She said forced conscription would only constitute persecution if it was selectively based on singling out political enemies for adverse treatment, and that this was not the case for Zacarias.

In its coverage of the Court's oral arguments, the immigration law weekly *Interpreter Releases* noted that the "singled out" standard has been softened by the BIA in recent years. "The new INS asylum regulations abandon the 'singled out' rule almost entirely, providing that an asylum officer or IJ [immigration judge] 'shall not require the applicant to provide evidence that he would be singled out individually for persecution' if: (1) the applicant establishes that there is a pattern or practice in his or her country of persecution of similarly situated groups; and (2) the applicant's 'own inclusion in and identification with such groups of persons such that his fear of persecution upon return is reasonable.'"

What Constitutes Political Opinion? Scalia questioned James Robertson, who argued the case on behalf of Zacarias, whether Zacarias had any political opinion, saying that the refugee standard requires "that there be an actual political opinion."

Robertson said that the record made clear that Zacarias' had articulated the political opinion that he did not want to be against the government, and suggested that this is "as much as we require of any of our citizens" in the way of a political opinion when they enter the voting booth.

In that case, Scalia asked rhetorically, "How could one *not* have a political opinion," suggesting that Robertson's interpretation was overly broad.

Associate Justice David Souter further developed Scalia's line of questioning, and suggested that Zacarias may have made a political "judgment" but not a political "opinion", which he said would have to be substantive.

Robertson said that Zacarias's political opinion was manifested by his refusal to join the guerrillas, and that the threat was made after his refusal to join. Souter remarked that, if we accept the broad concept of political opinion suggested by the respondent, then anyone who disagrees with a persecutor will always qualify for political asylum. "All you have to have is a disagreement," he said. "Why is that political opinion?"

Robertson answered that the disagreement was of a political nature because this case involves guerrillas who are a political faction. "To the extent that the threat of punishment is because of his refusal to join, then the 18-year-old may reasonably conclude that he has been threatened on account of his political views."

Scalia said that Robertson's argument fails to allow any distinction between agreement to fight and political views, and asked whether fear of dying in a machine gun battle is a political view. Scalia noted, "They wanted people to fight; they didn't care what they thought."

Kennedy added, "You are asking us to make an empirical assumption that any refusal to join is a political opinion."

Robertson argued that the Ninth Circuit drew the inference based on the State Department's advisory opinion concerning the guerrillas' use of forced conscription. He said that the BIA, in a series of judgments after the landmark *Cardoza-Fonseca* case (see *Refugee Reports*, Vol. VIII, No. 3), starting with *Matter of Maldonado-Cruz* (see *Refugee Reports*, Vol. IX, No. 11), had made a series of judgments based on presumptions about what guerrillas do and why, suggesting in *Maldonado* and elsewhere that the guerrillas had reasons other than political ones for persecuting.

Rehnquist said that the Ninth Circuit appeared to read political opinion as being that of the guerrilla group, not of the applicant.

Robertson answered that the Ninth Circuit discussed the threat in terms of country conditions and "determined the threat was not for personal reasons."

So, asked Justice White, the Ninth Circuit was saying the BIA was wrong in assessing the evidence?

Robertson said the Ninth Circuit held that, based on the guerrillas' use of forced conscription, persecution in the form of kidnapping was reasonably found. But, said Robertson, he was arguing that the fear was not of kidnapping, of the initial forced conscription, but rather the fear of murder if Zacarias is now returned to Guatemala after having refused to join the guerrillas.

Scalia said that the BIA had not, as Robertson had alleged, used a presumption. He said it is rather a matter of the burden of proof. Scalia said the government conceded that Zacarias would be harmed for not joining the guerrillas, but said that the burden of proof is on the asylum applicant to present evidence that he would be persecuted on account of his political beliefs.

Robertson asked, "For what reason would he be hurt? We must look at it through the eyes of the applicant." He returned to the refugee definition as based on the "well-founded *fear*" of the applicant. "Because he would not join indicates that he is not for, but is against" the guerrillas.

UNHCR Submits Amicus Brief in Support of Zacarias The UN High Commissioner for Refugees (UNHCR) submitted a Friend of the Court Brief on behalf of Zacarias, arguing that the focus of refugee status determination is on the asylum seeker's state of mind, not the intent of the persecutor. "Forced recruitment," said the brief, "or retaliation for refusal to join a guerrilla group deprives its victims of life or physical freedom and clearly constitutes sufficient harm to support a claim of persecution.... Moreover, the conscious refusal to join a guerrilla group is a political act that places an individual in opposition to recruiters and manifests an essentially political opinion."

BILL TO REFORM REFUGEE RESETTLEMENT INTRODUCED

Senators Edward M. Kennedy (D-Mass.) and Alan K. Simpson (R-Wyo.) have introduced a bill that they say will bring the first significant reform to the refugee resettlement process since the enactment of the Refugee Act of 1980.

According to Kennedy, the bill, the Refugee Resettlement Reform Act of 1991 (S. 1941), "represents a broad consensus of what needs to be done to streamline and make more cost effective our refugee resettlement program.... This legislation is necessary in light of continued funding constraints and declining resources available for local resettlement." Simpson added, "The bill will also move us toward a reasonable balance between admissions and the funding of effective domestic resettlement."

Besides establishing a goal for the refugee resettlement process, the bill contains a number of provisions that could result in major changes in the process itself. Among these are proposals that federal funding should match the number of admissions, that a case management system be introduced, that a new Administration on Refugee and Migration Affairs be established in the Office of the Secretary of Health and Human Services (HHS), and that annual consultations be held on the state of the refugee program between HHS, the State Department, states, localities, private and voluntary organizations (PVOs), and mutual assistance associations (MAAs).

The Refugee Resettlement Reform Act builds on the Refugee Act of 1980, as codified in the Immigration and Nationality Act. It essentially reforms the provisions of the 1980 act by repealing or amending certain provisions or language, and by adding several new provisions.

Initial response to the legislation by representatives of resettlement agencies, MAAs, states, localities, and other groups working with or for refugees have been supportive, but there is also concern that there are loopholes or caveats that weaken the proposed reforms. In coming months, *Refugee Reports* will be reporting further on this legislation. In the meantime, some of the key changes that S. 1941 proposes are outlined below.

° *Sec.* 3. In this section, the goal of the assistance provided to refugees resettled in the United States is said to be to contribute "to the durable economic self-sufficiency and full social integration of the refugees."

The Refugee Act of 1980 did not define a clear goal for the refugee resettlement program. There were mandates and expressions of congressional intent, for example relating to services being directed towards employment, but no stated goal.

° *Sec. 4.* The bill proposes that consular officers be allowed to make determinations of refugee status in regions of the world where Immigration and Naturalization Service (INS) officers are not usually present or don't visit often.

Currently, applicants must wait until an INS "circuit rider" visits the country to conduct refugee determination interviews. This provision could help speed up refugee processing in many countries, but may also place refugee status determinations in the hands of officials less familiar with the applicable standards.

° *Sec.* 5. The timing of the consultations on refugee admissions between the Administration and Congress is changed so that consultations take place before June 1 of each year. The Administration's annual Report to Congress on proposed refugee admissions is also required to be submitted at the time of the President's annual budget submission (generally February).

A new provision in the bill requires that "whenever the number of refugees proposed to be admitted exceeds the number reported...a specific budget request [be submitted by the Administration] with respect to such additional number of refugees to be admitted and resettled, including a description of the source of such additional budget authority, whether from supplemental appropriations, the reprogramming of funds, or otherwise."

This is the most contentious new provision in S. 1941. The aim of the proposed changes is to ensure that funding for the domestic part of the program be available for the actual number of refugees that the Administration proposes to admit. At present, a budget is presented for an anticipated number of admissions, but at the time of consultations, the number of proposed admissions is often revised upwards, while no new funds are made available to cover increased costs. The provision seeks to tie admissions to available funds.

° *Sec.* 6. Refugees who fail to "demonstrate progress" toward the repayment of any loan made to them by the United States for expenses--including airfare to the United States--incurred in connection with the resettlement process would not be eligible to adjust to permanent resident status "for a period of up to one year after the alien becomes eligible to apply for such adjustment."

° Sec. 7. A higher profile is accorded to the refugee resettlement program by calling for the establishment of an Administration on Refugee and Migration Affairs (headed by an Administrator for Refugee and Migration Affairs) within the Office of the Secretary of HHS.

° Sec. 8. The Secretary of HHS and the Secretary of State are called upon to consult at least once per year with states, localities, PVOs, and MAAs regarding "the state of the refugee program...[and] the development of general plans and policies which would govern the admission and resettlement of refugees."

° Sec. *10.* The bill calls for the establishment of a case management system. Case management is defined as "the performance and coordination of services by a service entity to...assist a refugee family or unit toward the earliest possible self-sufficiency."

Case management functions can be assigned to the resettlement agency or an MAA, or, states can consider "alternative means of structuring case management."

States with small refugee populations or low welfare utilizations are exempted from the case management requirement, as are other states which the "Administrator" determines have an alternative resettlement plan for which "there is a likelihood of accomplishing the goal of economic self-sufficiency for refugees." The tasks and responsibilities of the case manager are spelled out.

° Sec. 12. Cash and medical assistance (RCA and RMA) is to be available to refugees for no less than 12 months and no longer than 36 months. Also, refugees will be eligible to apply for medical assistance separately from cash assistance without having to qualify for the latter.

This provision addresses two issues: First, concern over decreased federal funding for cash and medical assistance, and second, the reluctance of some refugees to go off cash assistance if they get a job that does not offer health benefits.

Update

- On November 9, 1991, Hong Kong resumed the forced return of Vietnamese boat people. Hong Kong police boarded 59 refugees, many of them screaming and kicking, onto a plane that flew them to Hanoi.

Hong Kong first forcibly repatriated Vietnamese boat people in December 1989, but ceased following widespread international protests. On October 29, 1991, the governments of the United Kingdom (Hong Kong remains a

British territory) and Vietnam agreed that Vietnam would accept the involuntary return of Vietnamese who had been "screened out," i.e., determined not to be refugees by the Hong Kong authorities.

These latest refugees to be deported are so-called "double backers," Vietnamese who had previously fled to Hong Kong, agreed to repatriate voluntarily (and receiving financial assistance for doing so), then returned again to Hong Kong.

At a November 5 hearing on the forced repatriation held by the House Subcommittee on Asian and Pacific Affairs, Dawn T. Calabia, director of refugee policy at the U.S. Catholic Conference, Migration and Refugee Services, said, "Forced repatriation in our view is neither necessary, desirable, nor practical."

"If respect for international law and improving observation of respect for human rights remain as a high priority for U.S. foreign policy," Calabia added, "it is hard to understand how forced repatriation of Vietnamese boat people...is in our interest, or in the interest of the international community."

- As of November 29, the Red Cross had registered a total of 557,000 displaced persons in Yugoslavia. More than half of the total are displaced within Croatia, according to the International Committee of the Red Cross (ICRC). Another 58,000 have fled to other countries, including 45,000 to Hungary.

On November 21, the UN High Commissioner for Refugees (UNHCR) announced that it would be contributing $1.5 million in urgent assistance to displaced persons within Yugoslavia. The initiative to assist internally displaced persons falling outside the UNHCR mandate was taken at the behest of the High Commissioner, Sadako Ogata. She said, "Our joint action with UNICEF, with the ICRC and the European Community and other organizations is intended to contribute to the current peace efforts and to help prevent further large-scale displacements."

- President Bush has granted permission to remain in the United States for four years for 2,227 residents of Kuwait who were airlifted here in the wake of Iraq's invasion of Kuwait. The evacuees, most of whom are Palestinians, were initially paroled into the United States and given work authorization.

Although the Attorney General granted Temporary Protected Status to Kuwaiti nationals on March 27, long-term residents of Kuwait, such as Palestinians were not recognized as citizens of that country (see *Refugee Reports*, Vol. XII, Nos. 2, 3/4, and 8) and therefore ineligible for TPS. Thus, the Presidential directive uses the phrase "deferral of enforced departure," the terminology used to protect Chinese students from deportation after the Tiananmen Square massacre (see *Refugee Reports*, Vol. XI, No. 4).

A portion of the Palestinians are parents of U.S. citizen minors who were born in the United States while their parents studied here. Under U.S. law, citizens under age 21 cannot petition on behalf of their parents for family-based immigrant visas. Thus, when the Palestinians arrived, the Immigration and Naturalization Service told them that they would only be allowed to remain for four months. Bush's presidential order allows them to remain and work in the United States until January 1, 1996.

- On November 19, the House Judiciary Committee approved H.R. 3670, a technical corrections bill to the Immigration Act of 1990, which, among other provisions, would make aliens with no nationality eligible for Temporary Protected Status if they habitually resided in a country designated for TPS. (See previous update.)

- Intense fighting resumed in the Somali capital, Mogadishu, on November 17, 1991. More than 2,000 people may have been killed and up to 6,000 injured as a result of the fighting. Reports from the few relief groups left in Mogadishu indicate that hospitals are overflowing with casualties, and that a high percentage of those injured are women and children. Hundreds of thousands of people have reportedly fled the city and sought refuge in the surrounding countryside. According to the U.S. State Department's Office of Foreign Disaster Assistance (OFDA), even before this latest round of fighting, "alarmingly high severe malnutrition rates among children were being reported."

Somalia's interim president, Ali Mahdi

Mohamed, is said to have been ousted from power by General Mohamed Farrah Aidid, but forces loyal to Ali Mahdi continue to battle for control of parts of the city. Ali Mahdi and Aidid lead different subclans of the Hawiye clan, currently holding power in southern Somalia (northern Somalia seceded from the Somali Republic in August).

This is the second time that open warfare between these two groups has broken out in Mogadishu since they helped overthrow the regime of Somali dictator Mohammed Siyad Barre in January. More than 400,000 Somalis and Ethiopian refugees who had been living in Somalia have fled to Ethiopia since January.

- Press reports that the armed factions involved in the Liberian civil war had begun to disarm have proved premature. Under the terms of an agreement reached between leaders of member nations of the Economic Community of West African States (ECOWAS), Liberian interim president Amos Sawyer (who is in charge only in Monrovia, the capital), and rebel leader Charles Taylor, who controls most of the country, ECOWAS peacekeeping troops were to supervise the disarming of Taylor's troops.

Reportedly, the "border" between ECOWAS-controlled Monrovia and the Taylor-controlled countryside was opened on November 15, 1991. As ECOWAS troops set out to begin supervising the disarming, thousands of civilians who had been caught behind rebel lines poured into Monrovia, adding to the already severe overcrowding in the capital.

Information regarding the progress achieved by the ECOWAS troops is sketchy and contradictory, but it appears that the disarming process either did not begin or was called off shortly after it began.

- Refugees from parts of Southeast Asia have among the world's highest rates of the Hepatitis B virus, the Centers for Disease Control in Atlanta reported on November 14. As part of an announcement that the U.S. Public Health Service will be recommending that American children be vaccinated against Hepatitis B, the CDC estimated that more than 15 percent of refugees from parts of Laos, Vietnam, Thailand, and Cambodia carry the virus.

Projects and Programs

BOSTON PROGRAM FOR SOVIET JEWS WILL ALSO TRAIN VIETNAMESE FOR JOB MARKET

The refugee program of Jewish Vocational Services (JVS) in Boston assists up to 60 percent of the Soviet Jewish refugees who are resettled there. "The only ones we don't see," said Judy Sacks, JVS's employment services coordinator, "are those who are too old or too young to work." JVS's goal is to help refugees become employed. Its methods include not only job development and job placement services, but also providing refugees the language skills, training, cross-cultural and vocational counseling to understand the U.S. job market.

JVS counselors help newly arrived refugees formulate an "employability plan," which includes an assessment of what language and other services the individual may need in order to get a job. Those who already speak some English and have transferable skills attend English-as-a-Second Language (ESL) classes but begin their job search right away. Others receive two to four months intensive ESL training before they undertake an active job search. Some clients also participate in skills training programs to enhance their employability.

According to Guy Bresnahan, director of Refugee and Training Services for JVS, while many Soviet refugees who arrived in the past were well-educated professionals who spoke some English, in the last eighteen months there has been an increase in the number of refugees who are older or who have blue collar work backgrounds and who speak little or no English. JVS stresses the need for refugees to combine English language acquisition with job-search training to improve their ability to get a job in an increasingly competitive market. "From the very beginning," Bresnahan said, "we give them the message that English training and employment services go together."

Making Refugees Active Partners in the Job Search Helping the refugees to understand

4) Press (1) Retrieve

Marina Berkovich, her husband, and their four-year-old son arrived in Boston from Moscow eight months ago. Both are still unemployed, and Berkovich, although glad to be in the United States, is feeling discouraged about the future. "My husband is confident, but I'm not," Berkovich told Refugee Reports. *"We knew it would be difficult, but it's already been eight months and we don't have jobs."*

Berkovich and her husband both worked as dental technicians in the Soviet Union, but they have found that there are few work opportunities in Boston in their field. Berkovich has been taking ESL classes, has just completed JVS' medical office skills training course, and is also working as a volunteer at a health insurance company. Her husband is also taking ESL classes.

Berkovich says that though she and her husband had stable jobs and an apartment in Moscow, being Jewish, they were concerned about their security and about their future. "We never knew what might happen to us," Berkovich said.

Although the couple was accepted for resettlement in the United States in November 1989, they could not get an exit permit because they didn't have a close relative in the United States who could send the "letter of invitation" that the Soviet authorities required. So, before the reunification of West and East Germany, the couple left Moscow and went to East Berlin (they did not require Soviet exit permits to travel to East Germany). After German reunification, they contacted the U.S. embassy and, after several months, were finally resettled in the United States.

Berkovich recently had some good news. The company where she is volunteering has offered her a job interview. "My hopes are a bit higher right now," she said. *Photo credit: USCR/H. Ruiz*

the U.S. job market is an integral part of JVS's employment services. "In the Soviet Union, people were pretty much assigned their first jobs," Sacks told *Refugee Reports*. "They have to understand that it's different here, that they have to be active partners in the job search."

Although JVS aims to help refugees find jobs in or related to their field, many end up in jobs with a lower status than those they had in the Soviet Union. JVS counselors are aware of the anxiety this causes, but, according to Sacks, they "try to help the refugees understand that in the United States it is O.K. to start in a lower level job, that Americans change jobs more often than people in the Soviet Union do, and that American employers value a person who works his way up."

Another way JVS helps refugees learn about working in America is to place them in part-time volunteer positions with U.S. companies and human services agencies while they are in ESL or training courses. Some of these volunteer positions may lead to job offers with the companies, but mostly they offer the refugee first-hand experience in an American work setting, to practice speaking English with different people, and to put a U.S. work experience on their resumes.

JVS offers the refugees several different training courses, including computerized accounting, medical office skills, and, for experienced computer programmers, a high-level course designed to bring their knowledge and skills up to date. This latter course, in computer "C programming language," is being taught by a well-known professional in the computer field who has provided his expertise in exchange for tutoring in Russian by one of JVS's former Soviet Jewish refugee clients.

Training Programs to Expand In January 1992, the agency will begin two new training programs that will target not only Soviet Jewish refugees, but also Vietnamese refugees, particularly the families of former reeducation camp detainees.

These new initiatives are being funded jointly by JVS and the Massachusetts Office for Refugees and Immigrants through a grant for Targeted Assistance Grant (TAG) demonstration projects.

JVS is committed to an integrated design model of training," Sachs said. "It gives people an opportunity to learn together, struggle together, and laugh together. And it also mirrors the U.S. workplace, where everyone must learn to get along with different people."

The first of the new training courses will teach Computer Aided Drafting. Soviet Jewish refugees who are engineers, but who are not familiar with state-of-the-art technology, specifically computerized drafting, will have an opportunity to upgrade their skills. Vietnamese refugees, particularly the adult children of former reeducation camp detainees, will first learn mechanical drafting (with the help of the experienced Soviet refugees) and subsequently computerized drafting. Although the two groups will begin at different skill levels, they are expected to reach similar levels by the end of the course.

The second program is aimed at older Soviet and Vietnamese refugee women, who may find it difficult to acquire the level of English proficiency necessary for many types of office work. This training program will teach them computer data-entry skills, which require knowledge of English but not proficiency in speaking it.

Statement of Ownership, Management & Circulation

[Required by 39 U.S. Code 3685]

1A. Title of Publication: Refugee Reports.
1B. Publication No. 001-465.
2. Date of filing: 9/30/91.
3. Frequency of issue: Monthly.
3A. No. of issues published annually: 12.
3B. Annual subscription price: $37.50.
4. Office of publication: 95 Madison Avenue, New York, New York 10016.
5. Headquarters of general business office of publisher: 95 Madison Avenue, New York, New York 10016.
6. Names & addresses of publisher, editor and managing editor:
Publisher: American Council for Nationalities Service (ACNS), 95 Madison Avenue, New York, New York 10016.
Editor: Virginia Hamilton, ACNS, 1025 Vermont Avenue, N.W., Suite 920, Washington, D.C. 20005.
Managing Editor: None.
7. Owner: Non-Profit Organization, American Council for Nationalities Service, 95 Madison Avenue, New York, New York 10016.
8. Known bondholders, mortgagees and other security holders, owning or holding one percent of total amount of bonds, mortgages or other securities: None.
9. Extent and nature of circulation:

	Avg # of copies each issue during preceding 12 months	Actual # of copies of single issue published nearest to filing date
A] Total copies [net press run]	1,738	1,806
B] Paid circulation		
[sales through dealers, etc.]	0	0
[mail subscriptions]	1,463	1,531
C] Total paid circulation	1,463	1,531
D] Free distribution by mail, carrier or other means, samples, etc.	225	225
E] Total distribution [C&D]	1,688	1,756
F] Copies not distributed:		
[Office use]	50	50
[return from news agents]	0	0
G] TOTAL	1,738	1,806

10. I certify that the statements made by me above are correct and complete.

Virginia Hamilton
Editor

OVERVIEW OF ALIEN ELIGIBILITY FOR PUBLIC BENEFITS

	ALIEN'S STATUS							
				AMNESTY				
PROGRAM	LAWFUL PERM. RES. (LPR)	REFUGEE ASYLEE	PRUCOL*	IN U.S. PRE-82	SPECIAL AGR. WORKER	FAMILY UNITY	TEMP. PROT. STATUS	UNDOC.
CASH								
AFDC	Yes	Yes	Yes (narrowly defined)	No (for 5 years)	No (for 5 years)	No (for 5 yrs. or until LPR)	No	No
SSI	Yes	Yes	Yes (broadly defined)	Yes	Yes	Yes	No	No
Unem. Insurance	Yes	Yes	Yes (broadly defined)	Yes	Yes	Yes	Yes	No
MEDICAL CARE								
Medicaid	Yes	Yes	Yes (broadly defined)	Full services for 65 & over disabled, or child under 18. Others limited to emergency & pregnancy services for 5 years		Limitation is for 5 years or unit LPR	Emergency services	Emergency services

**Permanently residing under color of law.*

Source: National Immigration Law Center.

REFUGEE REPORTS is published monthly for $37.50 per year for one subscription, $25.00 each for two or more subscriptions to the same addressee, or $25.00 each for ten or more subscriptions requested at the same time, mailed to separate addresses; overseas postage is an additional $24.00 for second class or an additional $75.00 for airmail; by ACNS, 95 Madison Avenue, Third Floor, New York, NY 10016. Second Class Postage paid at New York and additional mailing offices. POSTMASTER: send address changes to *Refugee Reports*, Sunbelt Fulfillment Services, P.O. Box 41094, Nashville, TN 37204.

Editorial comments and inquiries should be sent to : *Refugee Reports*, 1025 Vermont Avenue NW, Suite 920, Washington, DC 20005. All communications regarding subscriptions should be sent to: *Refugee Reports* Subscriptions, Sunbelt Fulfillment Services, P.O. Box 41536, Nashville, TN 37204, (615) 377-3322.

Basic subscription rate for 12 issues per year: $37.50; Multiple-copy rate: $25.00; Single copies of back issues: $4.00
Co-Editors: Bill Frelick and Virginia Hamilton; Staff Writers: Court Robinson and Hiram A. Ruiz
Distribution Manager: Carolyn Moore; Production Coordinator: Koula Papanicolas
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Refugee Reports

A News Service of the U.S. Committee for Refugees, a Project of the American Council for Nationalities Service
Sunbelt Fulfillment Services
P.O. Box 41536
Nashville, TN 37204

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Refugee Reports

A News Service of the U.S. Committee for Refugees
1025 Vermont Avenue NW, Suite 920 Washington, DC 20005 (202) 347-3507

Volume XII, Number 12 **December 30, 1991**

1991 STATISTICAL ISSUE

This is our special year-end statistical issue. In addition, to tables and graphs on domestic and international refugee programs, this issue includes the index for Refugee Reports, Volume XII. The issue begins with updates of refugee news.

- With no reported pirate attacks on Vietnamese boat people since July 1990, a nearly ten-year-old anti-piracy arrangement between the Thai government and the UN High Commissioner for Refugees (UNHCR) was successfully concluded as of December 31. The United States, which has contributed more than $9.8 million to the anti-piracy effort since its inception in June 1982, pledged continued bilateral support to the Thai Marine Police to cover their program of land-based investigations and arrests.

"The war on the pirates is not over," said a November 12 report by a UNHCR assessment team, "but it has reached the stage where it can be effectively managed" by Thai agencies alone.

In 1981, UNHCR reported a total of 1,444 pirate attacks on Vietnamese boat people in the South China Sea: 961 people were listed as dead or missing and 857 women had been raped. Responding to international outrage and a demand for action, the Thai government and UNHCR agreed to cooperate in the fight against piracy and on June 23, 1982, the Anti-Piracy Arrangement (APA) was born, with funding from 12 countries.

An initial emphasis on air and sea patrols proved to be misplaced and the focus shifted to land-based activities. The "most important factor" in the success of the land-based efforts, according to the assessment team's report, was the work of the Thai Marine Police. "Even though crimes were committed at sea, the perpetrators had to return to land.... Intelligence teams gathered information, identified suspects and suspect vessels. Combining the evidence obtained with witness statements, arrests quickly followed."

From 1984 to the end of 1991, Thai officials arrested and charged 161 suspects for piracy offenses. A total of 106 defendents were found guilty of one or more charges and given sentences ranging from probation to life imprisonment.

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The number of attacks has decreased steadily since the beginning of the program, from 534 in 1982, 162 in 1987, and 37 in 1990. But in 1988, the level of violence of the attacks began to rise alarmingly, with more than 500 people reported dead or missing, compared to 95 the previous year. In 1989, the number of dead or missing climbed above 750.

The decreasing frequency and rising violence of the pirate attacks led experts to conclude that the success of the land-based activities--which included community outreach and education efforts along with increased surveillance and prosecutions--had driven off the rogue fishermen but left behind a nucleus of hard-core criminals, who sought to leave no witnesses.

The fact that no attacks have been reported since July 1990 suggests that even these professional pirates now have found the risks too high, or the yields too small, to bother the Vietnamese boats.

- On December 17 and 19, the Eleventh Circuit Court of Appeals overturned rulings by a federal judge for the southern district of Florida that had prevented the United States from forcibly repatriating Haitians. On December 20, the same district judge issued a third restraining order, which should prevent forced returns until at least January 22.

On December 17, a panel of the eleventh circuit had dismissed Judge C. Clyde Atkins's injunction by a 2-to-1 vote. Chief Judge Gerald Bard Tjoflat and Judge Emmett R. Cox held that international law provisions prohibiting the forced return of refugees to countries where their lives or freedom are not enforceable if the refugees have not yet reached the United States.

In a vigorous 15-page dissent, Judge Joseph W. Hatchett said that to "go out in international waters and actively prevent Haitian refugees from reaching the border...makes a sham of our international treaty obligations and domestic laws for the protection of refugees."

By the following morning, Judge Atkins had issued a new temporary restraining order based on a claim that the interdiction policy violated provisions of the Administrative Procedures Act.

But by December 19, that order too was rescinded by the eleventh circuit. Barring further legal challenges, the government seemed intent to repatriate screened out Haitians from the detention center on the U.S. Naval base at Guantánamo Bay, Cuba as quickly as possible.

On that same day, December 19, the Coast Guard repatriated a group of 22 voluntary returnees from Guantánamo who claimed they were mistakenly interdicted or taken unwillingly in boats commandeered by others.

Judge Atkins issued a third temporary restraining order on December 20, banning repatriation of Haitians. As of press time, the 11th circuit was scheduled to hear arguments challenging this latest district court order on January 22. These arguments are expected to involve First Amendment challenges to interdiction.

- As of November 21, the United States is no longer accepting Ethiopian applications for refugee resettlement. A cable to the field said, "This decision reflects an expectation that opportunities for large-scale voluntary repatriation of Ethiopians could take place over the coming 12-24 months." The cable noted both changes within Ethiopia and U.S. support for the UN High Commissioner for Refugees' (UNHCR) repatriation plan. "The suspension...is designed...to avoid creating a magnet contrary to repatriation which might impede UNHCR efforts," said the cable.

The State Department cable went on to say that individual P-1 cases of extreme urgency or hardship referred by UNHCR after November 21 could be referred to Washington for consideration on an exceptional basis.

It also said that the suspension would be reviewed in early 1992.

- On December 17, President Bush authorized the release of $7 million from the U.S. Emergency Refugee Migration Assistance (ERMA) Fund for the needs of victims of the civil conflict in Yugoslavia. These funds will be sent through UNHCR to the International Committee of the Red Cross (ICRC), and other governmental and private organizations. The United States earlier contributed $1 million to ICRC for use in Yugoslavia and $1.8 million to UNHCR to assist Yugoslav refugees in Hungary.

On December 3, UNHCR issued a joint appeal with UNICEF and the World Health Organization (WHO) for $24.3 million to assist more than 500,000 Yugoslavs internally displaced by the war.

- More than 200,000 people have been driven from their homes in northern Iraq since the beginning of October, bringing the number of internally displaced in that country to more than 700,000, said a December 5 UNHCR update.

Shelling of areas around Kelar, Kifri, and Chamchamal in Sulemaniya Province have forced out 140,884. Another 60,000 in Erbil Province were ordered to evacuate their homes. Additional numbers have fled from Salahudin Province, where Kurdish families from Saddam Hussein's hometown of Tikrit have been told to move north. In all cases, the displaced are moving into Kurdish-controlled areas. The situation has been exacerbated by an economic embargo on food, medicine, and fuel imposed on the northern provinces since October 23 by the Baghdad government.

"The situation in northern Iraq responds to the worst case scenario of our contingency planning," said Carrol Faubert, UNHCR's Persian Gulf emergency coordinator.

- On Thursday, November 21, the last group of 52 Vietnamese left the island camp of Pulau Bidong bound for another refugee camp, Sungei Besi, on the Malaysian mainland. One week later, Pulau Bidong, once Malaysia's largest camp for Vietnamese boat people, was declared officially closed. At its peak in June 1979, Pulau Bidong held more than 43,000 Vietnamese refugees.

Between August 1978, when the camp was established, and the end of November 1991, more than 254,000 Vietnamese passed through Pulau Bidong on their way to resettlement in the West.

From July 1990 to October 1991, only 29 Vietnamese arrivals have been recorded in Malaysia, and the Vietnamese population has declined from 17,200 to 12,700 in that same period. What those statistics don't record is how many Vietnamese sought to arrive in Malaysia only to be turned back to sea by coastal authorities. Western diplomats in Kuala Lumpur estimate that Malaysia has pushed back more than 12,000 Vietnamese asylum seekers in the last two years, most of whom have ended up in Indonesia.

Malaysian officials insist, however, that the decline in Vietnamese boat arrivals is not a result of the pushbacks so much as it is due to the regional screening process, instituted as part of the Comprehensive Plan of Action (CPA) in June 1989.

Of the 12,700 Vietnamese boat people in Malaysia as of October 1991, about 8,900 have been interviewed for refugee status. About 2,800 of those interviewed have been accepted as refugees and will be resettled in the United States, Australia, Canada, or another resettlement country. Another 2,400 have been screened out and face repatriation to Vietnam.

- On December 2, the U.S. Supreme Court denied a petition to hear a case involving the denial of asylum on the basis of changed conditions in Poland. The case, Kaczmarczyck v. INS, involves three persons affiliated with the Solidarity movement in Poland when it was an opposition group. The immigration judge determined that Solidarity had entered into a coalition with the government and that its members were no longer subject to persecution. The Board of Immigration Appeals upheld the denial, and its decision was upheld by the seventh circuit court of appeals. The petitioners said that the BIA did not have the authority to take official note of changed political circumstances.

- On December 16, the U.S. Supreme Court ruled that the State Department is not required to divulge the records of interviews it said it had conducted in the 1980s with Haitians forcibly returned to Haiti. The case arose from a Freedom of Information Act request filed by Michael Ray, a Miami immigration attorney, who represented three Haitians seeking asylum and sought to challenge the State Department's position that previous Haitian asylum seekers who had been returned to Haiti were not harmed. The Court reversed a Eleventh Circuit Court of Appeals ruling and sided with the government, saying that full disclosure would result in a "clearly unwarranted invasion of personal privacy."

Resources

TWO NEW REPORTS FROM USCR ON SRI LANKA AND MOZAMBIQUE

More than one million Sri Lankans--Tamils, Muslims, and Sinhalese alike--have been uprooted from their homes by the continuing civil unrest in that small island nation off the southern coast of India. Around 210,000 Sri Lankan Tamil refugees are living in the south Indian state of Tamil Nadu. About 700,000 more are displaced primarily within northeastern Sri Lanka, the locus of fighting between the Sri Lankan army and the Liberation Tigers of Tamil Eelam who seek a separate state. Others are living in often precarious status in various Western asylum countries.

The U.S. Committee for Refugees (USCR) has just released a new Issue Paper, "Sri Lanka: Island of Refugees," based on a site visit to areas of displacement inside Sri Lanka and to refugee camps in India. Written by Court Robinson, the 40-page report describes the history of ethnic strife in Sri Lanka, documents the living conditions of refugees and displaced persons, and makes recommendations for ensuring their protection and assistance until a peaceful settlement can be reached.

"Children of Mozambique: The Cost of Survival" Accounts by children of the many horrors they have endured in the course of the brutal civil war in Mozambique are detailed in a new Issue Brief published by the U.S. Committee for Refugees. Based on hundreds of interviews with children exposed to the war, "Children of Mozambique: The Cost of Survival", examines children's war experiences through their own words.

The civil war in Mozambique has had a particularly devastating effect on the country's children. Some 77 percent of the children interviewed witnessed civilians, often their parents or loved ones, being murdered. Their descriptions of the atrocities they have witnessed, and all too often been forced to commit, are chilling. A 13-year-old boy who was forced to join the Mozambican National Resistance (RENAMO) rebels, said, "A woman was there with her baby. The bandits [rebels] gave her a knife and ordered her to kill her baby. She refused and the bandits screamed at her. Finally, she stabbed the child."

The authors--Neil Boothby, Abubacar Sultan, and Peter Upton--discuss the psychological consequences of children's exposure to war, and how their families and communities have responded.

The two reports are free upon request to all Refugee Reports subscribers. Otherwise, the cost is $4.00 each. Contact USCR at 1025 Vermont Ave., NW, Suite 920, Washington DC 20005. (202) 347-3507. FAX: (202) 347-3418.

Job Board

Director Christian Refugee Outreach--an affiliate of the Church World Service, Immigration and Refugee Program in Washington, D.C.--is seeking a director. Responsibilities include program and policy development, administration, and fundraising. Please send resume with cover letter. Mail replies only. **Contact**: Eugene T. Taylor, Search Committee, 7729 Carrleigh Pkwy., Springfield, VA 22152.

Nurse Practitioner The International Clinic and International Travel Clinic, at Ramsey Clinic in St. Paul, Minnesota are seeking a nurse practitioner to direct a clinical care program for refugees and immigrants. Requirements include a Minnesota R.N. license and two years experience in tropical medicine. **Contact**: Dr. Patricia Walker, Medical Director, International/Travel Clinics, Ramsey Clinic, Jackson at University, St. Paul, MN 55101. (612) 221-3074.

IN MEMORIAM

The staff of the U.S. Committee for Refugees notes with deep sorrow the death of John Edward McCarthy on December 6, 1991. Mr. McCarthy will be remembered for his thirty years of service to the cause of the world's refugees and displaced persons. Among his many titles were director of Migration and Refugee Services/U.S. Catholic Conference, president of the International Catholic Migration Commission, and executive director of the National Catholic Resettlement Council.

John McCarthy also served on the boards of directors of the International Council of Voluntary Agencies, the American Immigration and Citizens Committee, and the American Council of Voluntary Agencies and was a consultor to the Vatican on migration affairs.

"In many ways he was a father figure and a spiritual leader for those of us, like me, who followed him in the refugee faith," said USCR director Roger P. Winter.

John McCarthy is survived by his wife of 46 years, Mercedes J. McCarthy, and their nine children. Condolences may be sent to the family at 11010 Lockwood Drive, Silver Spring, Maryland 20901.

INDOCHINESE REFUGEE ACTIVITY
Cumulative Since April 1975

COUNTRIES OF ASYLUM/RPCs	POPULATIONS AS of 9/30/91	FY 91 ARRIVALS	ADDITIONS SINCE APRIL 1975	TO U.S.	3RD COUNTRIES	VOLUNTARY REPATRIATION	RELOCATION
HONG KONG	64,138	23,129	215,902	51,625	71,503	10,191	0
MACAU	119	3	7,678	2,427	3,868	0	0
INDONESIA	19,326	2,293	126,850	42,861	43,058	1,565	0
MALAYSIA	12,766	379	258,003	89,659	104,843	608	0
PHILIPPINES	8,815	359	54,063	10,349	18,929	152	0
SINGAPORE	150	8	35,254	5,709	21,091	5	0
JAPAN	884	355	4,110	3,047	5,229	0	0
KOREA	184	28	393	8	180	0	0
TAIWAN	148	0	38	2	35	0	0
OTHER	0	5	40,856	3,261	28,718	0	0
THAILAND-KHMER	14,852	1,612	248,291	50,443	78,604	172	41,172
THAILAND-HIGHL.	49,464	8,308	178,139	53,517	22,026	3,297	0
THAILAND-LAO	7,316	847	195,199	72,218	49,031	4,977	1,000
THAILAND-VIETN.	14,510	2,749	156,684	37,488	48,341	1,915	0
SUBTOTAL THAILAND	**86,142**	**13,516**	**778,313**	**213,666**	**198,002**	**10,361**	**42,172**
TOTAL 1ST ASYLUM	**192,672**	**40,075**	**1,521,460**	**422,614**	**495,456**	**22,882**	**42,172**
REF. PROCESSING CENTERS (RPCs)							
BATAAN	10,373	1,768	222,921	220,227	6,551	0	12
GALANG	0	0	55,501	50,651	4,669	0	0
PHANAT NIKHOM	2,800	8,902	77,162	74,817	7	0	526
TOTAL RPCS	**13,173**	**10,670**	**355,584**	**345,695**	**11,227**	**0**	**538**
VIETN. TO U.S. IN 1975	0	--	124,547	123,000	0	1,547	0
OTHER TO U.S. IN 1975	0	--	12,000	12,000	0	0	0
VIET. TO CHINA IN 1977/79	0	--	263,000	0	263,000	0	0
GRAND TOTAL	**205,845**	**40,075**	**1,921,007**	**903,309**	**769,683**	**24,429**	**42,710**

Source: U.S. Department of State, Bureau for Refugee Programs.

THE ORDERLY DEPARTURE PROGRAM, FY 91

			NON-REFUGEES TO U.S.							
	ARRIVALS IN RPCs	REFUGEES TO U.S.	AMER-ASIAN IVs	IVs	NIVs	AMCITs	Pars	SUBTOTAL Non-Refs	TOTAL ODP TO U.S.	OTHER THIRD COUNTRY
NO SUBPROGRAM CLASS.	--	--	--	--	--	--	--	--	--	18,959
REGULAR SUBPROGRAM										
Family Reunification	9	1,040	--	14,131	42	--	7,872	22,045	23,085	--
Former USG Employees	--	277	--	159		--	27	186	463	--
Others	--	125	--	97	1	--	24	122	247	--
Subtotal	**9**	**1,442**	**0**	**14,387**	**43**	**0**	**7,923**	**22,353**	**23,795**	**--**
AMERASIAN SUBPROGRAM										
Amerasian Children	4,273	27	4,861	8	4	2	--	4,875	4,902	--
Accompanying Relatives	12,597	1,413	11,361	22	--	--	11	11,394	12,807	--
Subtotal	**16,870**	**1,440**	**16,222**	**30**	**4**	**2**	**11**	**16,269**	**17,709**	**--**
RE-ED CAMP SUBPROGRAM										
Former Re-Ed Prisoners	--	4,062	--	450	--	--	9	459	4,521	--
Accompanying Relatives	--	16,965	--	610	--	--	71	681	17,646	--
Subtotal	**0**	**21,027**	**0**	**1,060**	**0**	**0**	**80**	**1,140**	**22,167**	**--**
TOTAL FY 91	**16,879**	**23,909**	**16,222**	**15,477**	**47**	**2**	**8,014**	**39,762**	**63,671**	**18,959**
TOTAL (FY 80-91)	**83,390**	**93,775**	**38,468**	**54,541**	**148**	**87**	**14,436**	**107,682**	**201,447**	**128,000**

RPC--Refugee Processing Center; IV--Immigrant Visa; NIV--Non-Immigrant Visa; AMCIT--American Citizen; Par--Parolee.

Source: Bureau for Refugee Programs, U.S. Department of State

REFUGEE PROCESSING PRIORITIES BY REGION, AS OF DECEMBER 1991

	P-1	P-2	P-3	P-4	P-5	P-6
AFRICA (a)						
Africans in Africa	X	X	X	X	X	X
Africans outside Africa (b)	X	X	X	X	X	
EAST ASIA (c)						
Laotians	X	X	X	X	X	
Vietnamese	X	X	X	X	X	X
EASTERN EUROPE (d)						
Albanians	X	X	X	X	X	
NEAR EAST/SOUTH ASIA (e)						
Afghans	X					
Iranians	X	X	X	X		
Iraqis	X	X	X	X	X	
LATIN AMERICA/CARIBBEAN (f)						
Cubans within Cuba	X	X	X	X	X	
Cubans outside Cuba (g)	X					
Non-Cubans within own country	X					
Non-Cubans outside own country	X	X				
SOVIET UNION	X	X	X	X	X	X

NOTES:

(a) The following African nationalities are designated as nationalities of special concern: Angolans, Ethiopians*, Liberians, Mozambicans, South Africans, Somalis, Ugandans, Sudanese, Zairians, and other nationalities referred by the UNHCR.

(b) P-1 to P-5 processing for refugees outside Africa is only available to those who were in first asylum countries prior to July 1, 1988.

(c) Vietnamese and Laotians are designated nationalities of special concern.

(d) Albanians are the designated nationality.

(e) Afghans, Iranians, and Iraqis are designated nationalities of concern.

(f) Cubans who fled Cuba on or before November 20, 1987 are designated for special U.S. concern, as well as all other Central American and Caribbean nationalities.

(g) Limited P-1 processing is available to Cubans in third countries who fled Cuba on or before November 20, 1987. (Processing for P-2 to P-6 cases who left Cuba before certain cut-off dates is available under the Private Sector Initiative program.)

**Applications from Ethiopians were suspended indefinitely as of November 21, 1991.*

DESCRIPTION OF U.S. REFUGEE PROCESSING PRIORITIES

Priority One: Compelling concern/interest: exceptional cases of (a) refugees who are in immediate danger of loss of life and for whom there appears to be no alternative to resettlement in the United States, or (b) refugees of compelling concern to the United States such as former or present political prisoners and dissidents.

Priority Two: Former U.S. government employees: refugees employed by the U.S. government for at least one year prior to the claim for refugee status. This category also includes persons who were not official U.S. government employees, but who for at least one year were so integrated into U.S. government offices as to have been in effect and appearance U.S. government employees.

Priority Three: Family reunification: refugees who are spouses, unmarried sons, unmarried daughters, or parents of person in the United States. (The status of the anchor relative in the United States must be one of the following: U.S. citizen, lawful permanent resident alien, refugee, asylee, or member of certain groups of public interest parolees--temporary resident alien, conditional resident alien).

Priority Four: Other ties to United States: (a) Refugees employed by U.S. foundations, U.S. voluntary agencies, or U.S. business firms for at least one year prior to the claim for refugee status; (b) Refugees trained or educated in the United States or abroad under U.S. government auspices.

Priority Four (Iran and Cuba): In addition to (a) and (b) above: (c) Refugees who have served in positions of leadership or played a conspicuous role within a religious denomination whose members are subjected to discrimination, including the clergy, prominent laymen, those who have served in denominational assemblies, governing bodies, or councils; (d) Refugees who because of their minority religious affiliations have been deprived of employment, have been driven from their homes, have had their business confiscated or looted, have been denied educational opportunities available to others similarly situated in the same area, or have been denied pensions that would otherwise be available; and (e) Refugees who have become targets of persecution because of a perceived identification with the United States or the other nations of the West (including Israel).

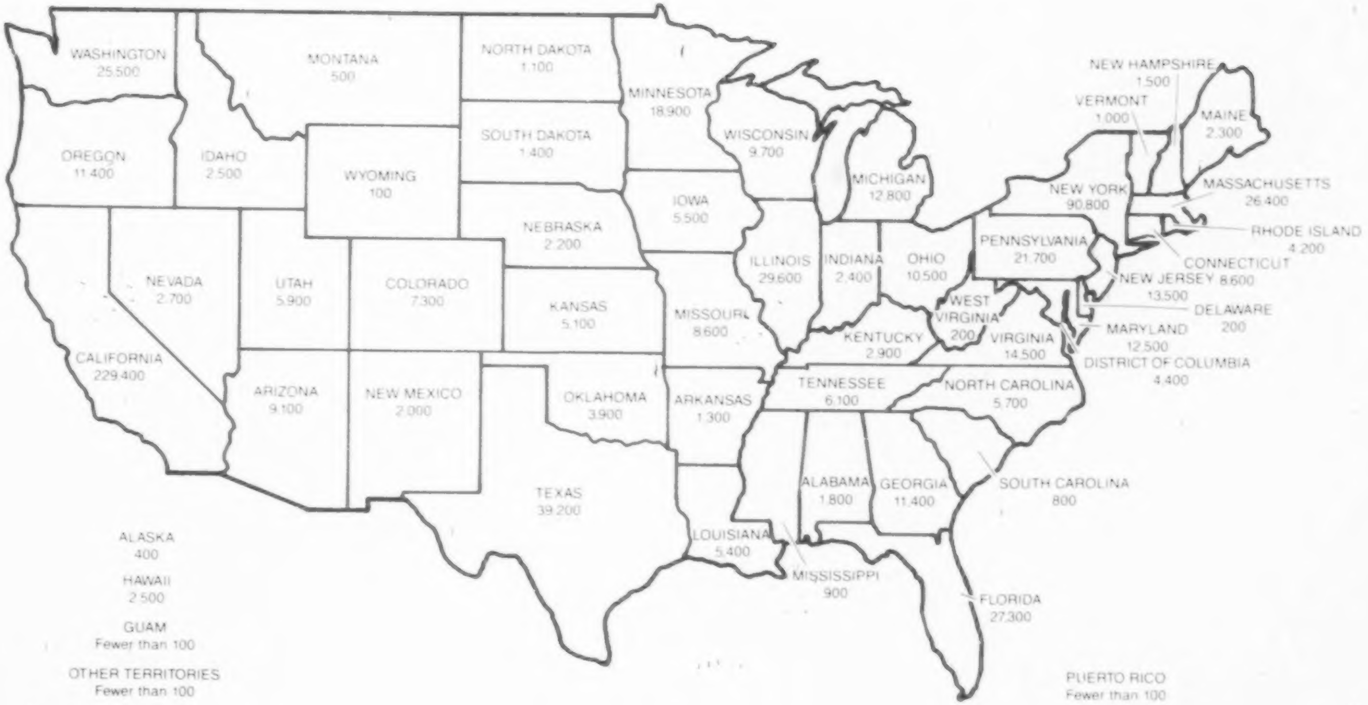
Priority Four (East Asia): In addition to (a) and (b) above: (f) Persons previously in the civil service or armed forces of the former governments of Indochina who were associated with U.S. government policies or U.S.-supported programs; (g) Persons who played a meaningful role in the social, economic, political, religious, intellectual, or artistic life of the former societies of Indochina, including such persons as professors, philosophers, monks, or other transmitters of the cultural traditions of these societies.

Priority Five (Additional family reunification): refugees who are: (a) married sons or married daughters of persons in the United States; (b) unmarried siblings of persons in the United States; (c) married siblings of persons in the United States; (d) grandparents of persons in the United States; (e) grandchildren of persons in the United States; (f) more distantly related individuals who are part of the family group and dependent on the family for support. (The status of the anchor relative in the United States must be one of the following: U.S. citizen, lawful permanent resident alien, refugee, asylee, or member of certain groups of public interest parolees--temporary resident alien, conditional resident alien).

Priority Six: Otherwise of special humanitarian concern: other refugees whose admission is in the national interest.

Source: Bureau for Refugee Programs, U.S. State Department

ESTIMATED CUMULATIVE REFUGEE POPULATION BY STATE* INCLUDING ENTRIES FROM 1983 THROUGH SEPTEMBER 1991


WASHINGTON
25,500
MONTANA
500
NORTH DAKOTA
1,100
MINNESOTA
18,900
OREGON
11,400
IDAHO
2,500
WYOMING
100
SOUTH DAKOTA
1,400
WISCONSIN
9,700
MICHIGAN
12,800
NEBRASKA
2,200
IOWA
5,500
NEVADA
2,700
UTAH
5,900
COLORADO
7,300
KANSAS
5,100
MISSOURI
8,600
ILLINOIS
29,600
INDIANA
2,400
OHIO
10,500
CALIFORNIA
229,400
ARIZONA
9,100
NEW MEXICO
2,000
OKLAHOMA
3,900
ARKANSAS
1,300
TENNESSEE
6,100
KENTUCKY
2,900
WEST VIRGINIA
200
VIRGINIA
14,500
NORTH CAROLINA
5,700
TEXAS
39,200
LOUISIANA
5,400
MISSISSIPPI
900
ALABAMA
1,800
GEORGIA
11,400
SOUTH CAROLINA
800
FLORIDA
27,300
NEW HAMPSHIRE
1,500
VERMONT
1,000
MAINE
2,300
NEW YORK
90,800
MASSACHUSETTS
26,400
RHODE ISLAND
4,200
PENNSYLVANIA
21,700
CONNECTICUT
8,600
NEW JERSEY
13,500
DELAWARE
200
MARYLAND
12,500
DISTRICT OF COLUMBIA
4,400
ALASKA
400
HAWAII
2,500
GUAM
Fewer than 100
OTHER TERRITORIES
Fewer than 100
PUERTO RICO
Fewer than 100

* Estimates include all major refugee populations. Adjustments for secondary migration through FY 1990. All totals rounded to the nearest hundred.

Source: Office of Refugee Resettlement / U.S. Department of Health and Human Services

REFUGEE ADMISSIONS TO THE UNITED STATES, FY 75-92

	FY 75-FY 79	FY 80	FY 81	FY 82	FY 83a/	FY 84b/	FY 85b/	FY 86	FY 87b/	FY 88b/	FY 89b/	FY 90b/	FY 91b/	FY 92	TOTAL
AFRICA (ACTUAL ADMISSIONS)		955	2,119	3,326	2,648	2,747	1,953	1,315	1,994	1,588	1,922	3,493	4,424		28,485
(CEILINGS)		1,500	3,000	3,500	3,000	2,750	3,000	3,500	2,000	3,000	2,000	3,500	4,900	6,000	
ASIA c/	254,095	163,799	131,139	73,522	39,408	51,960	49,970	45,454	40,112	35,015	45,680	51,611	53,484		1,035,249
		169,200	168,000	96,000	64,000	52,000	50,000	45,500	40,500	38,000	50,000	51,800	53,500	52,000	
EASTERN EUROPE	11,096	5,025	6,704	10,780	12,083	10,285	9,350	8,713	8,606	7,818	8,948	6,196	6,855		112,459
		5,000	4,500	11,000									7,000	3,000	
SOVIET UNION	56,989	28,444	13,444	2,756	1,409	715	640	787	3,694	20,421	39,553	50,716	38,661		258,229
		33,000	33,000	20,000	15,000	11,000	10,000	9,500	12,300	30,000	50,000	58,300	46,500	61,000d/	
LATIN AMERICA	19,000	6,662	2,017	602	668	160	138	173	315	2,497	2,605	2,309	2,237		39,383
		20,500	4,000	3,000	2,000	1,000	3,000	3,000	1,000	3,500	3,500	2,400	3,100	3,000	
NEAR EAST AND SOUTH ASIA		2,231	3,829	6,369	5,465	5,246	5,994	5,998	10,107	8,415	6,980	4,991	5,359		70,984
		2,500	4,500	6,500	6,000	5,250	6,000	6,000	10,200	9,000	7,000	5,000	6,000	6,000	
UNALLOCATED FUNDED RESERVE														1,000 e/	
PRIVATELY FUNDED (UNALLOCATED)									0	733	1,550	3,009	1,789		7,081
									4,000	4,000	4,000	4,000	10,000	10,000	
TOTAL	341,180	207,116	159,252	97,355	61,681	71,113	68,045	62,440	64,828	76,487	107,238	122,326	112,809		1,551,870
		231,700	217,000	140,000	90,000	72,000	70,000	67,000	70,000	87,500	116,500	125,000	131,000	142,000	

a/ *From FY 83 to FY 90, the Eastern Europe ceiling was combined with the ceiling for the Soviet Union.*

b/ *This chart shows the adjusted regional ceilings that were established at mid-year consultations in FY 84, FY 85, FY 87, FY 88, FY 89, FY 90, and FY 91. The overall annual ceilings did not change, except in FY 88 and FY 89.*

c/ *Ceilings and actual admissions figures for Asia include both first asylum resettlement and the Orderly Departure Program (ODP) from Vietnam, ODP numbers include Amerasian immigrants.*

d/ *Includes 50,000 admissions for FY 92 plus the FY 91 shortfall of 11,000 that the administration proposed admitting in FY 92.*

e/ *For the first time, the FY 92 admission numbers included an unallocated, federally funded reserve for 1,000 "high risk" cases.*

REFUGEES ADMITTED TO TH
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	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
EAST ASIA	163,799	131,139	73,522	39,408*	51,960	49,970
Khmer	n/a	n/a	20,234	13,115	19,851	19,097
Lao: Highlanders	n/a	n/a	2,600	738	2,753	1,944
Lao: Lowlanders	n/a	n/a	6,837	2,096	4,538	3,472
Vietnamese**	n/a	n/a	43,851	25,487	24,818	25,457
Other***	163,799	131,139	0	0	0	0
NEAR EAST/S. ASIA	2,231	3,829	6,369	5,465	5,246	5,994
Afghans	n/a	n/a	4,300	2,926	2,128	2,234
Iranians	n/a	n/a	0	947	2,917	3,492
Iraqis	n/a	n/a	2,032	1,583	195	264
Syrians	n/a	n/a	37	9	6	4
Other***	2,231	3,829	0	0	0	0
USSR & E. EUROPE	33,469	20,148	13,536	13,492	11,000	9,990
Soviets	28,444	13,444	2,756	1,409	715	640
Albanians	n/a	n/a	14	70	46	45
Czechs	n/a	n/a	736	1,335	853	981
Bulgarians	n/a	n/a	122	140	127	130
Hungarians	n/a	n/a	386	662	549	530
Poles	n/a	n/a	6,647	5,868	4,331	3,145
Romanians	n/a	1,881	2,871	4,003	4,371	4,513
Yugoslavs	n/a	n/a	4	5	8	6
Other***	5,025	4,823	0	0	0	0
AFRICA	955	2,119	3,326	2,648	2,747	1,953
Angolans	n/a	n/a	120	10	81	75
Ethiopians	n/a	n/a	3,186	2,604	2,533	1,788
Mozambicans	n/a	n/a	3	11	26	7
Namibians	n/a	n/a	1	2	22	12
South Africans	n/a	n/a	6	9	14	29
Zairians	n/a	n/a	10	11	36	12
Other***	955	2,119	0	1	35	30
LATIN AMERICA	6,662	2,017	602	668	160	138
Argentines	n/a	n/a	2	2	0	0
Cubans	n/a	n/a	600	666	67	135
Nicaraguans	n/a	n/a	0	0	0	3
Salvadorans	n/a	n/a	0	0	93	0
Other***	6,662***	2,017 ***	0	0	0	0
TOTAL	207,116	159,252	97,355	61,681	71,113	68,045

* This number excludes 2,028 of the East Asian totals who were admitted to the U.S. under non-refugee status.

** Total combines Vietnamese arrivals from first asylum camps and through the Orderly Departure Program.

*** Breakdown by ethnic/national group is not available.

**** Private Sector Initiative admissions not included: FY 88-733 Cubans; FY 89-1,512 Cubans, 26 Iranians; FY 90-3,003 Cubans, 6 Vietnamese; FY 91-1,789 Cubans.

Source: Bureau for Refugee Programs, U.S. State Department

UNITED STATES BY NATIONALITY
80-91

FY 86	FY 87	FY 88	FY 89	FY 90	FY 91	CUMULATIVE FY 80-91
45,454	40,112	35,015	45,680	51,611	53,484	781,154
9,789	1,539	2,805	1,916	2,166	38	90,550
3,668	8,307	10,388	8,476	5,207	6,369	50,450
9,201	7,257	4,168	3,956	3,564	2,880	47,969
22,796	23,009	17,654	31,327	40,619****	44,179	299,197
0	0	0	5	55	18	295,016
5,998	10,107	8,415	6,980	4,991	5,359	70,984
2,535	3,220	2,211	1,716	1,594	1,480	24,344
3,148	6,681	6,167	5,147	3,329	2,692	34,520
307	202	37	114	67	842	5,643
5	0	0	1	0	1	63
3	4	0	2	1	344	6,414
9,500	12,300	28,239	48,501	56,912	45,516	302,603
787	3,694	20,421	39,553	50,716	38,661	201,240
84	48	72	47	98	1,363	1,887
1,589	1,072	140	111	332	585	1,974
173	114	672	925	345	158	8,666
754	669	784	1,075	274	7	5,690
3,735	3,626	3,345	3,607	1,491	290	36,085
2,373	3,075	2,801	3,182	3,650	4,452	37,172
4	2	4	1	6	0	40
1	0	0	0	0	0	9,849
1,315	1,994	1,588	1,922	3,494	4,424	28,485
3	40	13	18	59	21	440
1,268	1,831	1,456	1,767	3,229	3,948	23,610
1	7	13	4	3	12	87
5	3	3	0	0	0	48
12	70	42	20	34	19	255
4	7	10	18	79	73	260
22	36	51	95	90	351	3,785
173	315	2,497	2,605	2,309	2,237	20,383
0	0	0	0	2	0	6
173	273	2,273****	2,271****	1,750****	2,144****	10,352
0	36	209	323	532	87	1,190
0	6	15	11	22	6	153
0	0	0	0	3	0	8,682
62,440	64,828	75,754	105,688	119,317	111,020	1,203,609

ASYLUM CASES FILED WITH INS DISTRICT DIRECTORS APPROVED AND DENIED, BY SELECTED NATIONALITIES

	June 1983 - March 1991 Cumulative			FY 91 Only** (1st half)			
Country	Approval Rate for Cases Decided	Cases Granted	Cases Denied	Approval Rate for Cases Decided	Cases Granted	Cases Denied	Cases Currently Pending
TOTAL*	23.6%	41,227	133,178	31.3%	1,696	3,722	114,044
USSR	74.5%	624	213	62.7%	79	47	2,154
China	69.0%	970	434	92.2%	200	17	808
Romania	62.6%	1,676	999	10.0%	26	232	2,734
Iran	61.0%	13,411	8,550	60.8%	132	85	1,959
Somalia	49.1%	546	565	79.4%	85	22	391
Ethiopia	47.4%	2,422	2,680	70.7%	277	115	1,896
Syria	43.6%	267	344	28.6%	8	20	275
Czechoslovakia	41.9%	189	262	15.4%	2	11	135
South Africa	40.1%	73	109	61.5%	8	5	72
Afghanistan	37.7%	468	773	66.6%	28	14	321
Vietnam	34.5%	87	165	75.0%	3	1	38
Poland	33.1%	3,013	6,073	2.2%	3	135	2,446
Hungary	26.0%	219	622	7.1%	2	26	297
Uganda	26.0%	104	295	40.0%	4	6	68
Nicaragua	24.8%	12,684	38,270	18.2%	368	1,656	23,867
Cuba	18.5%	630	2,773	38.5%	75	120	11,834
Pakistan	16.4%	89	451	50.0%	4	4	326
Philippines	14.9%	91	517	4.2%	1	23	687
Lebanon	13.8%	279	1,732	40.6%	41	60	1,534
Yugoslavia	10.5%	66	560	0.0%	0	40	1,020
Sri Lanka	6.7%	12	166	33.3%	3	6	143
El Salvador	2.8%	1,365	46,712	25.3%	135	398	34,970
Honduras	2.1%	41	1,899	7.7%	4	48	1,048
Guatemala	2.0%	204	9,593	15.7%	34	183	15,146
Haiti	1.8%	42	2,259	1.0%	1	96	425

* The total includes all nationalities, not just those listed here.

** This chart is based on data for asylum cases filed with INS district directors only. Many applications for asylum are filed with immigration judges, particularly in the context of deportation proceedings. In 1991, the responsibility for adjudicating asylum claims was moved to a new corps of asylum officers. No statistics are currently available on asylum approval rates under the new system.

Note: Prior to June 1983, INS asylum figures were for actual number of individuals, not for cases, which can represent more than one individual. To avoid inconsistency, this chart begins with June 1983.

Source: Immigration and Naturalization Service (INS)/U.S. Department of Justice.

REFUGEE APPROVAL RATE BY REGION AND SELECTED NATIONALITY, FY 91

	APPROVAL RATE FOR CASES DECIDED	CASES APPROVED	CASES DENIED	PENDING
TOTAL	**89.5%**	**107,962**	**12,644**	**17,555**
REGION				
East Asia/Pacific	96.8%	33,560	1,091	106
USSR	91.4%	57,445	5,350	327
Latin America/Caribbean	90.1%	2,263	246	253
Africa	81.8%	4,740	1,051	3,773
Eastern Europe	67.7%	5,137	2,441	7,711
Near East/S. Asia	66.0%	4,783	2,459	5,345
COUNTRY				
Libya	100.0%	344	0	0
Nicaragua	100.0%	89	0	49
Vietnam	98.3%	24,985	425	95
Laos	96.5%	8,425	303	1
Angola	95.8%	23	1	17
South Africa	95.0%	19	1	19
Burma	92.8%	13	1	0
Mozambique	92.3%	12	1	20
Poland	92.0%	312	27	727
USSR	91.4%	57,445	5,350	327
Cuba	89.8%	2,168	246	204
Uganda	89.2%	125	15	144
Iran	83.4%	2,577	510	1,798
Zaire	83.3%	75	15	109
Ethiopia	81.0%	3,978	932	2,861
Somalia	76.5%	163	50	351
Bulgaria	71.3%	562	226	789
Albania	68.8%	1,319	597	2,257
Hong Kong	68.1%	30	14	9
Romania	68.1%	2,779	1,296	3,750
Iraq	65.7%	728	380	2,083
Afghanistan	48.4%	1,477	1,569	1,463
Sudan	39.3%	24	37	268
Czechoslovakia	34.9%	158	294	169
Cambodia	22.7%	102	347	1

Source: Immigration and Naturalization Service (INS)/U.S. Department of Justice.

Note: The total includes all nationalities. Nationalities for whom fewer than a total of ten cases were approved or denied are not included in the country-by-country tally.

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REFUGEE REPORTS is published monthly for $37.50 per year for one subscription, $25.00 each for two or more subscriptions to the same addressee, or $25.00 each for ten or more subscriptions requested at the same time, mailed to separate addresses; overseas postage is an additional $24.00 for second class or an additional $75.00 for airmail; by ACNS, 95 Madison Avenue, Third Floor, New York, NY 10016. Second Class Postage paid at New York and additional mailing offices. POSTMASTER: send address changes to *Refugee Reports*, Sunbelt Fulfillment Services, P.O. Box 41094, Nashville, TN 37204.

Editorial comments and inquiries should be sent to : *Refugee Reports*, 1025 Vermont Avenue NW, Suite 920, Washington, DC 20005. All communications regarding subscriptions should be sent to: *Refugee Reports* Subscriptions, Sunbelt Fulfillment Services, P.O. Box 41536, Nashville, TN 37204. (615) 377-3322.

Basic subscription rate for 12 issues per year: $37.50; Multiple-copy rate: $25.00; Single copies of back issues: $4.00
Co-Editors: Bill Frelick and Virginia Hamilton; Staff Writers: Court Robinson and Hiram A. Ruiz
Distribution Manager: Carolyn Moore; Production Coordinator: Koula Papanicolas
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Refugee Reports

A News Service of the U.S. Committee for Refugees, a Project of the American Council for Nationalities Service
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Refugee Reports

A News Service of the U.S. Committee for Refugees
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Volume XIII, Number 1 **January 31, 1992**

CAMBODIAN REPATRIATION: PERILS AND PROSPECTS

Sadako Ogata, the UN High Commissioner for Refugees, has called 1992 the "year of voluntary repatriation." The return of 370,000 Cambodian refugees and displaced persons in Thailand is shaping up to be one of the largest, most complex, and most costly in UNHCR's history. Based on his trip last November to Thailand and Cambodia, Court Robinson examines the perils and the prospects for Cambodian repatriation.

The six o'clock movie at the Mongkol Borei video parlor was "Rambo". Some shoestring impresario had bought the tape from Thailand, dubbed it in Phnom Penh, and then carried it up to this little town in Cambodia's western frontier. The selection seemed at once bizarre and fitting: people so long at war enjoying their newfound peace by watching a war movie.

Signs of war and peace clashed everywhere in Mongkol Borei. Dozens of new stalls were going up in the marketplace. Mine victims filled the district hospital. UN vehicles rumbled through town, scouting out land for returning refugees. Just a few kilometers to the northwest, thousands of internally displaced persons were camped, unable to go home for fear of mines and banditry.

Last October, the four contending factions in Cambodia's 13-year civil war agreed to an ambitious plan for peace, which puts the administration of the country into the hands of the United Nations, pending national elections some time in 1993. In November, Prince Norodom Sihanouk returned to Phnom Penh to represent Cambodia's sovereignty in the interim.

But before elections can be held, the peace must be secured, troops disarmed, prisoners of war released, and 370,000 Cambodian refugees displaced in Thailand must have a chance to return and resettle safely.

Though the UN-sponsored agreement represents a fundamental shift in Cambodian political prospects, it is still only a "peace of paper," as some have called it, and far from secure. As the United Nations gears up for one of the most

IN THIS ISSUE:

Following a peace agreement last October, plans are now going forward for the repatriation of about 370,000 Cambodians in Thailand. Court Robinson looks at the problems that will have to be met for the program to work successfully....... 1

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ambitious undertakings in its history, Cambodians on both sides of the border worry and wonder how far they can trust the peace.

Said one internally displaced person in a camp outside of Mongkol Borei, "Sihanouk is only in Phnom Penh. The war is here. We don't believe in peace yet. Pol Pot and the Khmer Rouge are still here. I saw them in the village. They came and shot. We had to leave."

"I was going to be happy because at least the shelling stopped," a refugee in Site 2 camp told a relief worker, "but the day they signed we heard more shelling than in a long time; they even took that happiness from me. Now I just worry about going home. Will peace last? Will I get a house, a job, how will I feed my family, will I be accepted?"

The UN Peace Plan and Repatriation During the nearly four years that the Khmer Rouge ruled Cambodia before being driven out by Vietnamese forces in early 1979, the radical communist regime was responsible for the deaths of more than one million people through torture, execution, starvation, and forced labor.

In the wake of the Vietnamese invasion, hundreds of thousands of Cambodians fled to the Thai border seeking temporary relief and protection. Some found just the opposite.

In what one writer has called "one of the darkest chapters in the history of Thailand's response to refugees," in June 1979, Thai soldiers rounded up at least 43,000 Cambodians from border encampments, bused them north to the Dangrek mountains, and forced them down the steep cliffs into a Cambodian minefield. Perhaps 10,000 people died.

One month later, as an inducement to Thailand to open its border--as well as a gesture of sympathy for the suffering Cambodians and a judgment against the new communist regime in Phnom Penh--Western nations made an open-ended commitment to resettle Indochinese refugees.

In all, 232,000 Cambodian refugees have been resettled, including 148,000 to the United States. For a brief period, Thailand maintained an "open-door" policy, permitting Cambodians to enter the country without restriction and to enjoy temporary asylum until they were resettled or chose to return home.

Political and numerical pressures persuaded Thailand to abridge this policy in early 1980, declaring that the 160,000 people then in Khao I Dang and other UNHCR-controlled border camps would be allowed to keep their refugee status but all new arrivals would be considered illegal immigrants without access to UNHCR protection or third-country resettlement.

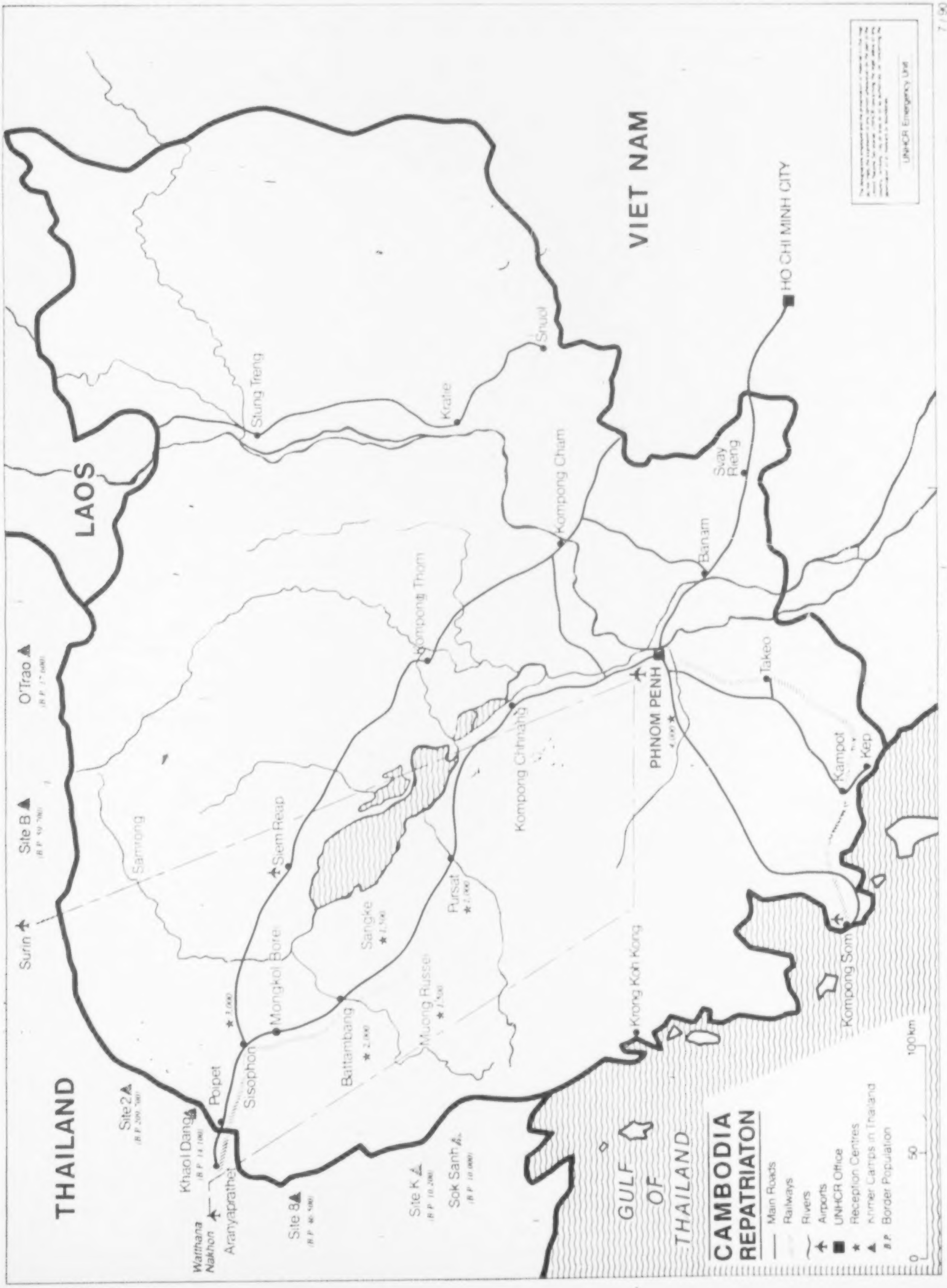
In 1982, two noncommunist resistance factions--the Khmer People's National Liberation Front (KPNLF) and the Sihanoukist National Army (ANS)--forged an alliance with the Khmer Rouge to drive the Vietnamese-backed government in Phnom Penh from power. Khao I Dang remained the only camp under UNHCR administration, and the only border camp where Cambodians enjoyed refugee status. The rest fell under the aegis of the UN Border Relief Operation (UNBRO), established to serve Cambodian "displaced persons" in Thailand.

Keeping a seat in the United Nations and a string of base camps along the Thai border, the tripartite Coalition Government of Democratic Kampuchea maintained steady political and military pressure on Phnom Penh throughout the last decade. In September 1989, the Vietnamese troops withdrew from Cambodia, and two years later, the Phnom Penh regime, led by Prime Minister Hun Sen, agreed to the terms of a UN-sponsored peace plan.

The UN settlement, which was signed in Paris on October 23, 1991, places administrative responsibility for the country in the hands of the UN Transitional Authority in Cambodia (UNTAC) until free and fair elections can be held. They are tentatively scheduled for April 1993. In the meantime, the "sovereignty, independence, and unity of Cambodia" will reside in a 12-member Supreme National Council (SNC), comprising all four political factions and headed by Prince Norodom Sihanouk.

The peace plan also stipulates that the 370,000 Cambodian refugees and displaced persons in Thailand must have a chance to get home in time to cast their votes.

"Time Is Very Precious" Annex 4 of the Paris settlement states, among other things, that "Repatriation of Cambodian refugees and displaced


CAMBODIA
REPATRIATON
Main Roads
Railways
Rivers
Airports
UNHCR Office
Reception Centres
Khmer Camps in Thailand
Border Population
0
50
100km
THAILAND
LAOS
VIET NAM
GULF OF THAILAND
HO CHI MINH CITY
PHNOM PENH
Stung Treng
Kratie
Snuol
Kompong Cham
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Mongkol Bore
Battambang
Muong Russei
Sisophon
Poipet
Aranyaprathet
Watthana Nakhon
Khao I Dang
Site 2
Site 8
Site K
Sok Sanh
Site B
O'Trao
Surin
Krong Koh Kong
Kompong Som
UNHCR Emergency Unit
7/90

persons should be voluntary and their decision should be taken in full possession of the facts. Choice of destination within Cambodia should be that of the individual. The unity of the family must be preserved."

UNHCR initially estimated that it would need $109 million for the voluntary repatriation program, scheduled to begin in April 1992 and to be completed within six months. The primary objective was to safely transport an estimated 250,000 refugees from Thailand to six reception centers in Cambodia and thence to their village of destination. It was believed that about 100,000 Cambodian refugees would repatriate spontaneously.

A UNHCR registration conducted in the border camps at the end of 1991, however, forced the agency to revise its figures. The registration showed a total population of nearly 370,000, of whom 90 percent, or about 330,000, expressed a wish to return under UN auspices, according to a UNHCR report issued on January 22.

UNHCR estimated it would take nine months, instead of six, to transport this much larger number of people from Thailand to Cambodia.

Although UNHCR still expects that some of the border population will be able to get home in March and April and begin planting before the rainy season starts in May, many more people will not get home until later in the year.

"It would be hard to expect that everybody can plant this year and enjoy the harvest," Ogata told the *Bangkok Post* during a January visit to Thailand and Cambodia, but "those who can't plant this year will have food." The UNHCR plans to provide food aid to returnees for a full 18 months from their date of repatriation.

A repatriation process that is both larger and longer will also cost more money, and UNHCR is already strapped for cash. Of its initial appeal for $109 million, UNHCR has raised about $32 million from donor countries, including $5 million from the United States. "We cannot repatriate people on credit," Ogata said. "The money will have to come."

"Time is very precious," Ogata told the *New York Times*. "The desire and the pressure to start soon is very heavy." Refugee camp life has little to recommend it, the factions want their people home to vote, and Thailand wants its land back.

But the impediments to safe return appear equally imposing: mines, disease, banditry, and continued instability.

Whatever the timetable, it is clear that Cambodian repatriation faces a host of potential problems and pitfalls, and there will be costs for either moving too slowly or too fast.

Worries on the Thai Side Include Forced Return and Residual Cases On November 21, 1991, the Thai government, the SNC, and UNHCR signed a 29-point memorandum of understanding (MOU), detailing the specific responsibilities of the three contracting parties involved in Cambodian repatriation.

Echoing Annex 4 of the UN peace plan, the three parties pledged to cooperate with one another "to ensure that repatriation will be on a voluntary basis...[and] shall prevent any attempt by any side to interfere with the exercise of free choice of destination." As of November 1, UNHCR has taken over responsibilities for the border camps from UNBRO, which had no explicit protection mandate. One function of UNHCR defined in the MOU is "the prevention of clandestine organized return."

"The UNHCR must have 24-hour presence in the camps, with more field offices," Jamshid Anvar, UNHCR bureau chief for Asia and Oceania, told *Refugee Reports* two days after the MOU was signed. "UN authority must no longer be simply theoretical." Anvar said that Thailand had agreed to a stronger UN role on the border. As for the concurrence of the Cambodian factions, said Anvar, "so far so good. But if there are problems, we will blow the whistle."

In early October 1991, a hard-line faction of the Khmer Rouge military deposed the civilian administration in Site 8, took control of the UN-administered camp in Thailand housing 43,000 Cambodian displaced persons, and announced that the camp population must return to KR-controlled areas in Cambodia.

A storm of international protest ultimately forced the Khmer Rouge to back down, but the threat of forced repatriation remains.

Although the leadership in the KPNLF camp, Site 2, and the Sihanoukist camp, Site B, swears allegiance to the UN repatriation effort, relief workers on the border say that many camp

Refugees in Site 8, a Khmer Rouge-controlled camp in Thailand, queue up for services. International protests last October thwarted a KR plan to repatriate the camp populace, but the threat remains.
USCR/ C. Robinson

residents have been pressured to go back to the "liberated zones."

"There are lots of questions about repatriation and lots of anxiety about jobs, land, etc.," a camp worker in Site 2 told *Refugee Reports*. "The factions prey on these anxieties to recruit people into the zones. They promise land, jobs, and security."

"Maybe they force the people back in Site 8, but here they do similar things," a refugee in Site 2 told Liz Bernstein of the Coalition for Peace and Reconciliation, a Thai-based advocacy group. "Only they use psychological ways: they tell us it's better to live in a big group, with [people] whom we know already, to protect ourselves from enemies and bandits."

Thou Thon, a KPNLF sectional leader in Site 2, denied that pressure was being put on anyone. "If we all go to the liberated zones, we would only get one or two seats" in the elections, he told *Refugee Reports*. "If we go farther in, maybe we can have more influence." Besides, he added, "in the future, if people become free, they will hate the leaders who try to control them."

Addressing a long-standing Thai concern that no refugee populations are left over following repatriation, the MOU binds the three parties "to ensure that there would be no residual problems in Thailand." Several thousand Cambodians in Khao I Dang--the one border camp that has always been under UNHCR administration--have protested the UN peace plan and insist that the only real form of protection is resettlement.

Chan Vannak, a 35-year-old physician's assistant from Battambang, crossed into Thailand in 1979 and has been living in Khao I Dang since 1986. His wife's parents live in the United States. "My wife very much wants to see her family," Chan told *Refugee Reports*, "but I'm not sure about the chances. If I don't get resettled, I'll stay until the last one. I'm afraid of what might happen in Cambodia. We have no one left there."

According to the MOU, repatriation will be voluntary, but when "the circumstances that create the status of genuine refugee have ceased to exist, this principle will no longer be relevant." What this means, UNHCR officials say, is that the residents of Khao I Dang or others on the border who do not choose repatriation will be permitted to remain in Thailand probably until elections are held in Cambodia.

With a reasonably stable and democratically elected regime in Phnom Penh, UNHCR and Thai officials would meet with representatives of the new Cambodian government to determine the best course of action for the residual caseload of Cambodians in Thailand. A small number might be resettled, some likely will choose to go home at that time, and others could simply be deported.

But, right now, UNHCR insists that the focus must be on voluntary return. "I object to any movement out of Khao I Dang to third countries," Anvar said. "It creates false hopes for thousands of people on the border, and it disrupts totally the process of repatriation."

Mines, Malaria, and Violence Are Worries in Cambodia Standing against the pressures for speedy repatriation is the commitment made in Article 5 of the MOU: "The contracting parties agree that the repatriation of Cambodian refugees and displaced persons under the UN auspices shall take place only when there exist conditions conducive to the safe transportation and return in safety and dignity to places of final destination of the returnees."

In a November 7 information paper, UNHCR said that preconditions for safe return should include the following:

1) there must be overall peace and security in Cambodia;
2) the government of Cambodia must provide an estimated 150,000 hectares (about 370,000 acres) of agricultural settlement land for the returnees;
3) the settlement land must be de-mined;
4) major access roads and bridges must be repaired; and
5) there must be strong funding support from the donor countries.

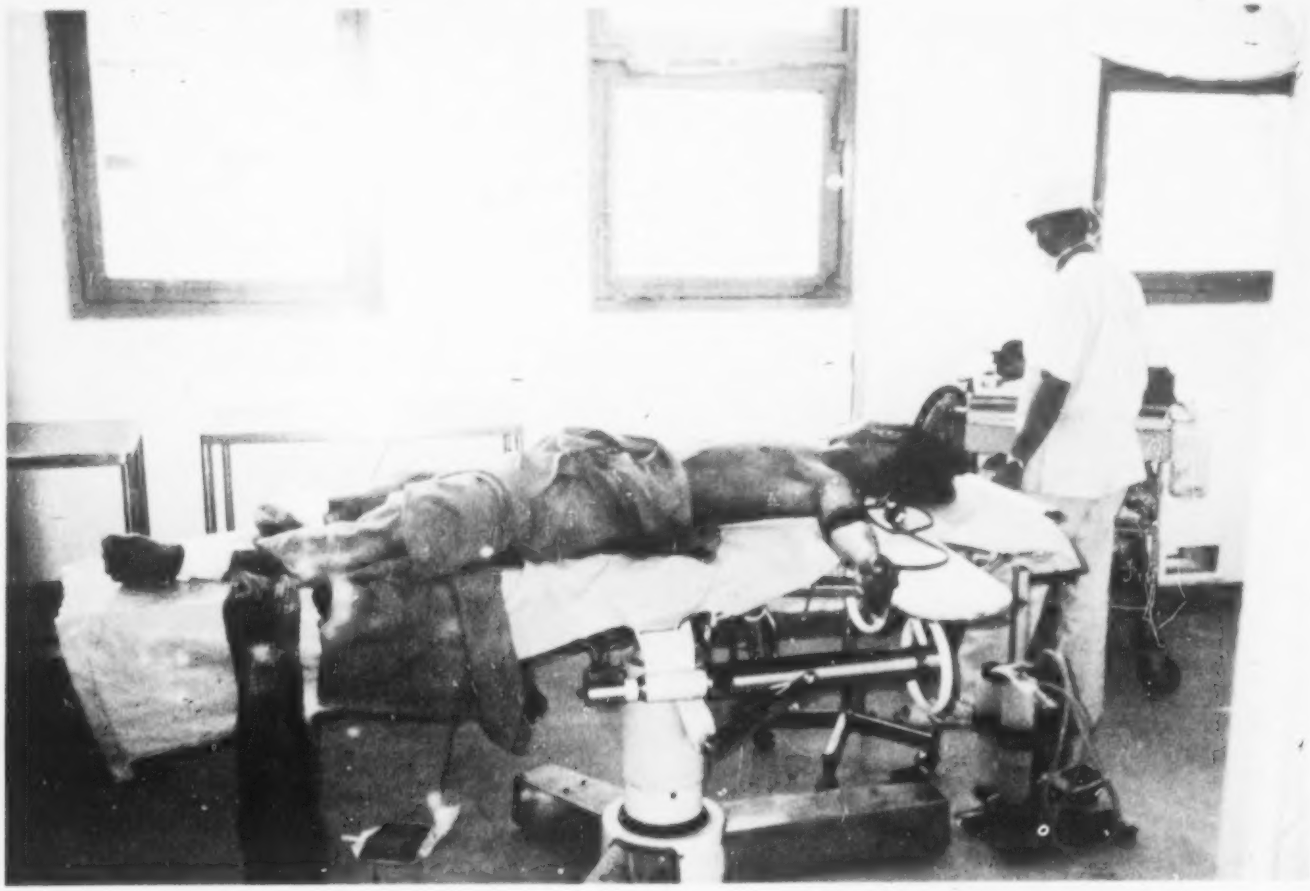
A survey of the Cambodian camps conducted by the Ford Foundation in 1990 showed that the border population was primarily from a farming background. About 60 percent came from the four border provinces of Battambang, Banteay Meanchey, Siem Reap, and Pursat.

The latest UNHCR registration of the border camps showed that 57.3 percent of the returnees, about 190,000 people, want to repatriate to Battambang Province alone. As reasons for this substantial preference, UNHCR's January report noted that "many fled to cities with their families and were subsequently moved to Battambang in 1975," when the Khmer Rouge force-marched people out of the major cities and into the countryside. "These respondents would have little or no memory of the province of their birth, thus looser ties," the UNHCR report said. "Perceived instability in Cambodia may have influenced their decision to return to provinces near the Thai border. Other factors mentioned by returnees were better farming possibilities in Battambang." Another 14 percent said they wanted to repatriate to Banteay Meanchey.

The UNHCR plan is to give two hectares of farmland to each family of returnees, which averages 4.4 persons. In November and December of 1991, a UNHCR land-identification mission identified 240,000 hectares of "potentially available arable land" in the four western provinces favored by returnees. Simultaneously, a team of de-mining experts under contract to UNHCR surveyed one-fourth of this identified area. Of the 60,000 hectares surveyed, the London-based HALO Trust concluded that half were "probably not mined." Another 28,800 hectares were "probably mined" and 11,200 hectares were "probably heavily mined."

According to a recent report by Asia Watch and the Physicians for Human Rights, "Cambodia today has the highest percentage of mine amputees of any country in the world." At least 36,000 people have lost one or more limbs to a land mine in Cambodia, including 6,000 people in 1990 alone. HALO Trust had estimated that there may be 400,000 mines in the western provinces.

Given that the long and dangerous task of actually lifting the mines will not begin until February, UNHCR says it will concentrate on the early return of several groups: those who wish to return to a specific location of their own choosing (rather than to land identified by UNHCR), those



A land mine victim recovers from surgery in the Mongkol Borei hospital. At least 36,000 Cambodians have lost a limb to land mines, including 6,000 in 1990. *USCR/C. Robinson*

returning to the eastern provinces, and those returning to urban areas.

In addition to mines, returnees also face the risks of malaria and water-borne diseases. "Medically, the biggest problem will be gastroenteritis among children under five years of age," said Ulrich Roethig, a doctor working for the International Committee of the Red Cross (ICRC) in Mongkol Borei. He noted that 25 percent of Cambodian children are under five and have been drinking chlorinated water all of their lives. "There is no real answer," he said. "People know they should boil the water, but it's a matter of resources."

"Malaria will attack everybody," said Ulrich, "but most vulnerable will be children and pregnant women." He cautioned against setting up "double structures" for the people returning from Thailand. "There should be nothing special for the returnees. The objective should be to reinforce or expand the existing health structures so they can serve the population on the spot and put them in a position to cope with the additional influx."

Returnees will also face problems of social and psychological adjustment, according the ICRC delegate in Mongkol Borei, Beat Schweitzer. "Each additional farmer arriving in Cambodia is a threat to the existing farmers," Schweitzer said. "Each additional cyclo driver in Phnom Penh is a threat to existing cyclo drivers, each additional doctor or nurse, and so on. All of these people will meet with resistance."

New outbreaks of political violence also hamper repatriation planning and cloud the prospects for peace. Several protest demonstrations in Phnom Penh--some against the Khmer Rouge and some against government corruption--have ended in bloodshed. On the night of January 22, Tea Bun Long, a Cambodian official who had accused senior members of the Hun Sen government with corruption, was abducted by two men in a military jeep. He was later found shot to death. On January 28, a prominent dissident, Oung Phan, was wounded by unidentified gunmen.

Khmer Rouge attacks on several villages in Kompong Thom Province in early January left 13 civilians dead and 18 seriously wounded, according to ICRC. About 10,000 people were internally displaced by the attacks, which ICRC called "the most serious cease-fire violation" so far.

Khmer Rouge radio broadcasts blamed the attacks on "Vietnamese aggressor forces."

There are now about 180,000 people displaced inside Cambodia, most of whom were uprooted by fighting in late 1989 and early 1990 but still cannot go home due to mines, banditry, and general insecurity.

According to a needs assessment report written by the World Food Program (WFP) in March 1991, about half of those displaced were living in the westernmost provinces of Banteay Meanchey and Battambang. "Roughly 41 percent are living in distinct displaced persons sites," said the report, "and the remaining 59 percent are scattered in clusters within existing villages living among relatives and friends."

WFP has been coordinating the relief effort for internally displaced persons since July 1990, working with the Cambodian Red Cross and a number of private and international organizations. As of March 1991, WFP estimated that $4 million in relief--principally emergency food aid--had been given the displaced persons.

The WFP report proposed a budget of $12 million for internally displaced persons in 1991-92, which included assistance with health and sanitation, food, shelter, water drilling, agriculture, and education. As of November 1991, according to Scott Lieper, WFP director in Phnom Penh, about $2.5 million had been contributed.

Lieper said he was worried that international focus increasingly will shift from the internally displaced persons to the returnees from Thailand. "You can't have preferential treatment for the repatriates," Lieper said, "or there will be problems."

Updates

- After being tied up in the U.S. courts since November 19, when a district judge suspended forced returns of Haitian boat people, forced repatriations were to resume on February 3 following a 6-3 Supreme Court vote on January 31 giving the Bush Administration a green light to proceed with its plans. The Supreme Court gave no reason for its decision.

The UN High Commissioner for Refugees (UNHCR) said that it had sought assurances from the U.S. government that "those seeking safety abroad would not be forced to return until the situation in Haiti has evolved positively and has stabilized." The UNHCR statement went on to say that "those being returned may, in fact, be exposed to danger upon their return."

The State Department issued a statement that "we have received no credible reports of reprisals against any individual Haitian who attempted to reach the United States, including those who were repatriated after the coup."

The UNHCR statement said, "UNHCR is not in a position to monitor the safety of those being returned to Haiti."

- A group of 34 Cubans took a Cubana Airlines tourist helicopter and flew to Tamiami Airport outside Miami on January 3. After being taken to the Krome detention center, the Cubans were released by the Immigration and Naturalization Service (INS) and are staying with family members in Florida. Cuba has demanded the return of the helicopter and its passengers and crew.

- The duration for refugee cash and medical assistance has been reduced to eight months for FY 92, according to a final regulation published in the January 10 *Federal Register.*

- Temporary Protected Status (TPS) for Kuwaitis is scheduled to expire on March 27, but TPS has been extended for Lebanese and Liberians through March 28, 1993, according to notices in the January 24 *Federal Register.* The designation for Lebanon includes "persons having no nationality who last habitually resided in Lebanon." This provision is expected to benefit Palestinians. The Attorney General estimates that 7,500 from Lebanon and 5,000 from Liberia will benefit from TPS.

- The parties in litigation concerning fees for Salvadorans registering for Temporary Protected Status (TPS)--*Cortez V. Barr*--reached a settlement on January 17, according to which final TPS work authorization fees will be lowered from $60 to $20. When the program began, registration and work authorization fees would have totalled $405 per person for those Salvadorans registering from the beginning of the program. Now, total fees amount to $215 per person.

- On January 15, the U.S. Supreme Court ruled in *Doherty v. INS* that the Attorney General had not abused his discretion in denying a motion to reopen deportation proceedings for an alien claiming asylum and withholding of deportation. By a 5-3 margin, the Court held that the Attorney General has "broad discretion" to deny such motions.

The case involves a member of the Provisional Irish Republican Army who was tried and convicted *in absentia* for murder in the ambush and killing of a British army captain.

Although agreeing with the majority that the Attorney General has discretion to reopen based on the asylum claim, which itself is discretionary, Associate Justice Antonin Scalia dissented on the matter of withholding deportation based on the clear probability standard of persecution. Withholding deportation under such circumstances is mandatory, he pointed out, indicating that the abuse of discretion standard was not the proper standard for the majority to have applied.

- The Solicitor General petitioned the Supreme Court on December 9 to review the *Flores v. Meese* decision, in which the Ninth Circuit Court of Appeals ruled as unconstitutional an INS policy to detain juveniles unless an adult relative or legal guardian comes forward to claim them, even if there is another responsible adult willing and able to care for them (see *Refugee Reports*, Vol. XII, No. 9).

- In an effort to crack down on an estimated 160,000 Burmese "illegal immigrants" living in Thailand, local officials in Sangklaburi district have ordered all Burmese ethnic minorities in the area--including an estimated 15,000 Mon and Karen living in refugee camps--to demonstrate legal residence or face deportation to Burma.

According to an October directive from a district official, Karens without pink Displaced Persons cards (demonstrating that they entered Thailand prior to March 1976) are required to move from S'nay Pong camp into the Burmese interior by November 1. Unregistered Mon have until that same date to consolidate themselves in one camp, Krung Kang, but must move back into Burma by April 1992. "If the time limit is exceeded," said the Sangklaburi directive, "all authoritative bodies will proceed with arrests and prosecution."

In a November 5 letter to the Thai Ministry of Interior, several private agencies providing relief aid to the Burmese minority groups in Thailand urged the Thai government to "reconsider or at least postpone" the movement of Karen to Khao Pang Sanuk inside Burma. The letter called the move "quite impractical, since we understand that Khao Pang Sanuk is very remote, that the main bridge was washed away in the floods, and that the road itself is impassable. To move these people now would cause great hardship involving a several-day walk under dreadful conditions. We would also welcome your assurance that Khao Pang Sanuk is indeed a safe area to move these people to, as our experience with those fleeing from this region suggests that it is far from secure."

"It will not be possible for us to provide assistance to these people once they cross the border," said the relief agencies, all members of the Burma subcommittee in the Committee for Coordination of Services to Displaced Persons in Thailand.

- Two former East German border guards were convicted on January 21 for having shot and killed a refugee seeking to escape in February 1989 (see *Refugee Reports*, Vol. X, No. 3). The guard who fired the fatal shot was sentenced to 3.5 years for manslaughter. The other guard was given a two-year suspended sentence.

Recent Developments

BACKLOGS, OLD AND NEW, THREATEN TO OVERLOAD NEW ASYLUM SYSTEM

Although official figures have yet to be released, sources in the Immigration and Naturalization Service (INS) indicate that the backlog of asylum applications pending at the end of FY 91 was more than 141,000 and that by the end of December had grown to more than 177,000.

The last official tally, from the end of March 1991, when the new asylum officer corps took over the asylum adjudication procedure from INS district directors, was 114,044. This itself represented a 58 percent increase over the 71,993 cases pending at the beginning of FY 90.

The new asylum corps was dug into a hole before it began. The number of asylum cases adjudicated in the first six months of FY 91, during the transition period before the new system started, 5,418, was about one-third the number of cases decided for the same period in 1990, 14,405.

The corps of 82 asylum officers had an estimated capacity to decide a maximum of 43,500 cases per year once it became fully operational. But about 62,000 new cases were filed in FY 1991, in addition to the 97,288 cases pending at the beginning of the fiscal year.

The asylum corps, however, has not operated at peak efficiency. For example, financial constraints have forced cut backs on "circuit riding," an important component of the new system, which is based on only seven asylum offices nationwide.

Looking Ahead An additional 68 asylum officers are being hired, but are not scheduled to complete their training and begin work earlier than April. Adding the new asylum officers, the maximum capacity of the full asylum corps will be about 80,000 cases per year, according to INS estimates.

This assumes no emergencies. However, the Haitian crisis has already disrupted the asylum corps, as officers have been shuttled to Guantánamo Bay to conduct asylum pre-screening interviews. Currently about 20 percent of the nation's asylum officers are working at Guantánamo Bay.

In the meantime, a new number is causing concern at INS: 40,000--the number of new asylum applications filed in the first quarter of FY 92. Projected for an entire year, this would represent 160,000 new applications, more than double the number of new applicants last year.

An INS source looking at the first quarter numbers said, "It would be absolutely mind boggling if this continues."

This source told *Refugee Reports* that screened in Haitians are not even included in this number.

ABC Asylum Claims Coming in INS sources attribute the first quarter increase in large part to Guatemalans and Salvadorans filing directly for asylum according to the settlement agreement in the *American Baptist Churches (ABC) v. Thornburgh* class action suit (see *Refugee Reports*, Vol. XII, Nos. 1 and 9). An estimated 50,000 Guatemalans will be applying for asylum under terms of the ABC settlement. The registration period for Guatemalans ended on December 31.

About 10,000 Salvadorans are estimated to have opted not to register for TPS, but instead directly applied for asylum under the terms of the ABC settlement. Their deadline for filing was October 31. It is also likely that some Salvadoran TPS registrants have applied early for asylum.

In any case, some 20,000 of the FY 92 first quarter applicants are believed to be Salvadorans and Guatemalans filing asylum claims directly, according to the ABC agreement.

The remaining 40,000 ABC applicants will have to file in the second quarter of FY 92 in order to qualify. Thus, the total number of asylum applicants in the second quarter can be expected to be even higher than the first.

When, and if, the Salvadoran TPS Shoe Drops A major new influx of asylum applications can be anticipated when TPS expires for Salvadorans. Already, the INS has begun issuing Orders to Show Cause (OSCs) to Salvadorans upon completion of their final TPS re-registration.

A memo from the INS central office dated

December 31 instructs field officers to issue OSCs to Salvadorans who re-register for TPS between January 2 and the scheduled expiration of TPS on June 30. All OSCs will carry the date March 31, 1993, as the hearing date.

According to the ABC settlement, these deportation hearings will be automatically closed for any class member who has filed an asylum application before August 29, 1992.

This means that between June and August, many of the estimated 190,000 Salvadoran TPS registrants will be filing for asylum with the INS asylum corps. Due to high TPS registration fees, private groups working with the Salvadoran community believe that single persons or heads of households might be a high proportion of the total. A conservative estimate, therefore, would be that 40 percent, about 80,000 of the TPS registrants, will file asylum claims.

Salvadoran TPS Registrants
(by INS Region)

Eastern	75,605
Northern	2,605
Southern	24,842
Western	84,329
Total	**187,108**

Source: INS, late reporting could affect final tally, projected at 190,000.

And Now for the Bad News This makes for some rather stark arithmetic. Start with a 141,000 backlog at the beginning of FY 92. Add a projected 140,000 new applications (extrapolated from first quarter receipts, and assuming 60,000 ABC registrants). Add another 80,000 applications from TPS registrants. That gives a total of 361,000 cases for the asylum officers corps in FY 92. This estimate does not take unforeseen possibilities with Haitians into account.

Assuming that the 82-person asylum officer corps is able to handle 21,750 cases in the first half of the year (which, again, ignores the impact of the Haitian emergency on them), and that with the new hires on board and operating at full efficiency for the second half of the year, a maximum of 40,000 more cases could be completed, this gives a best-case estimate of 61,750 cases completed. This would result in about 300,000 cases pending at the end of FY 92.

Caveats There are several soft spots in this analysis that could move the estimate significantly in either direction. What happens with the Haitians is a wild card on the increase side. At the least, the Haitian crisis will tie up many asylum officers' adjudication hours in pre-screening time that won't budge the backlog.

A wild card that would lower the new backlog estimate is if TPS is extended for Salvadorans. This would delay the flood of 80,000 or more new cases into the system.

Another factor that could lower the old backlog is that many of the cases may have to be administratively closed if the applicants can't be found. Many of the 97,288 applicants pending at the beginning of FY 91 had actually been interviewed, but their cases had not been closed. This occurred with Nicaraguans, for example. There were 23,867 Nicaraguan cases pending in March 1991.

Letters will be sent to all the members of this group giving them the option of having new hearings before the INS asylum corps. But many of them may have moved and may now be unreachable, thus leading to administrative closure of those cases. Regardless of how cases that were already interviewed are handled, at least 80,000 of the 141,000 pending cases at the beginning of this fiscal year will need first-time interviews.

The March 91 backlog also included 34,970 Salvadorans and 15,146 Guatemalans who may now be double counted with ABC and TPS registrants.

The very best case scenario for the INS asylum corps--assuming 1) a TPS extension for Salvadorans; 2) administrative closure of much of the backlogged cases; 3) no new influxes of Haitians or other groups; and 4) a fully staffed 150-person officer corps operating a peak efficiency (with no one conducting pre-screening interviews of Haitians), would still result in a backlog in excess of 150,000. Under current circumstances, however, the backlog at the end of this fiscal year is likely to be twice that high.

SUPREME COURT REJECTS ASYLUM BID FOR GUATEMALAN FLEEING FORCED RECRUITMENT BY GUERRILLAS

The U.S. Supreme Court handed down a ruling on January 22 in the *Immigration and Naturalization Service v. Elias-Zacarias* case involving an 18-year-old Guatemalan who fled his country in 1987 after having refused to join guerrillas who came to his home carrying machine guns and wearing masks.

Zacarias testified that the guerrillas told him to "think it over" about joining them, and that they would return. After he fled from Guatemala, his father wrote to tell him that the guerrillas had twice returned to his home searching for him.

Although his asylum claim had been denied both by an immigration judge and by the Board of Immigration Appeals, the Ninth Circuit Court of Appeals ruled that Zacarias had indeed established eligibility for asylum because of the threat of forced recruitment. The court held that the threat to Zacarias was on account of his political opinion since "the person resisting forced recruitment is expressing a political opinion hostile to the persecutor and because the persecutors' motive in carrying out the kidnapping is political."

Writing for the six-justice majority, Associate Justice Antonin Scalia said, "The first half of this seems to us untrue, and the second half irrelevant."

He said that resisting recruitment did not necessarily imply a political opinion. "Even a person who supports a guerrilla movement might resist recruitment for a variety of reasons--fear of combat, a desire to remain with one's family and friends, a desire to earn a better living in civilian life, to mention only a few."

The Persecutors' Motives Even if the guerrillas' goals are political, reasoned Scalia, it doesn't necessarily follow that forced recruitment becomes "persecution on account of...political opinion" because of *their* political opinion. The meaning of the statute is "persecution on account of the *victim's* political opinion, not the persecutors," wrote Scalia.

In stressing this point, Scalia appeared not only to be taking issue with the Ninth Circuit's reasoning in supporting Zacarias's asylum claim, but also distancing the Court somewhat from arguments advanced by the Bush Administration in opposition to the claim.

In oral arguments before the Court in November, the deputy solicitor general had argued that "the belief in the mind of the persecutor is controlling...whether the purpose was to persecute, to punish someone for his political beliefs." She had argued that even if Zacarias did have a political opinion, this fact would not justify the inference that the guerrillas intended to persecute him for it (see *Refugee Reports*, Vol. XII, No. 11).

Despite stressing that the political opinion in question is that of the victim, Scalia did recognize the importance of considering the motivations of the guerrillas. He started by saying that there is no need for the Court to decide "whether the evidence compels the conclusion that Elias-Zacarias held a political opinion." This, he said, is because Zacarias must show that his well-founded fear of persecution is "*because of* that political opinion, rather than because of his refusal to fight with them."

Scalia offers the opinion in a footnote that it is indeed likely that the guerrillas' taking of Zacarias would be "to augment their troops rather than show their displeasure." He added that "the killing he feared might well be a killing in the course of resisting being taken."

Speaking for the majority, Scalia set an important precedent for future asylum cases by saying that applicants are not required to provide direct proof of their persecutors' motives, but "since the statute makes motive critical, he must provide *some* evidence of it, direct or circumstantial."

Dissent Calls Ruling "Narrow, Grudging" Writing for the three-person minority, Associate Justice John Paul Stevens called the majority opinion a "narrow, grudging construction of the concept of 'political opinion,'" and inconsistent with the Court's earlier interpretation of the meaning of "well-founded fear" in *INS v. Cardoza-Fonseca* (see *Refugee Reports*, Vol. VIII No. 3).

Stevens declared that "the record in this case is more than adequate to support the conclusion that this respondent's refusal was a form of expressive conduct that constituted the statement of a 'political opinion.'"

Stevens commented in a footnote that "the statute speaks simply in terms of a political opinion and does not require that the view be well developed or elegantly expressed."

Stevens argued that political opinions can be expressed negatively as well as positively, for example, by staying home on election day. "Even if the refusal is motivated by nothing more than a simple desire to continue living an ordinary life with one's family," wrote Stevens, "it is the kind of political expression that the asylum provisions of the statute were intended to protect."

In a final footnote, Stevens wrote that "the Court suggests that respondent and I have exaggerated the 'well-foundedness' of his fear...any doubts concerning the sinister character of a suggestion to 'think it over' delivered by two uniformed masked men carrying machine guns should be resolved in respondent's favor."

Projects and Programs

SMALL TOWN RESETTLEMENT, AN IOWA STORY

West Liberty, Iowa, has a population of some 3,000 inhabitants. On the surface, it is the epitome of small town America: white houses with picket fences, a charming but rather rundown Main Street, and lots of farmland all around. But West Liberty is different. Nearly a third of its residents are minorities. The majority are Hispanic, but nearly 300 are Southeast Asians, primarily Lao and Vietnamese, many of whom have been resettled in West Liberty by the State of Iowa and the Ethnic Minority Christian Ministry (EMCM) project of the local United Methodist Church.

A primary attraction of West Liberty as a resettlement site is the availability of work. A large turkey processing plant located in the town provides employment not only for many of the town's residents, but also for commuters from a number of cities nearby. According to EMCM's lone staff member, Les Verhelst, the plant's management has been helpful in identifying positions for newly arrived refugees, even those without English language skills. Refugees resettled in West Liberty are usually working within a month or two of their arrival.

Iowa is the only state that is also a private voluntary agency resettling refugees under the State Department's Reception and Placement (R&P) program. The state identifies local sponsors--including church groups, other service organizations, and individuals--that contract to provide resettlement services in communities throughout the state. Case Managers attached to the state's Bureau of Refugee Programs work with the sponsors to provide orientation, job development, and other services.

Refugees resettled in West Liberty are able to participate in English as a Second Language (ESL) classes and skills training courses offered specifically for the refugees by a nearby community college. ECMC provides books and local volunteers help with tutoring.

Refugees resettled in West Liberty also benefit from Verhelst's seemingly endless energy. Long after they have settled in, refugees continue to turn to Verhelst for help with a wide range of problems, from how to get car insurance to help in applying for a mortgage to buy a house.

Vietnamese Family Finds Work, Security in Small Town When Mot Nguyen and her family got off the airplane on November 10, 1990, Cedar Rapids was very cold and rainy. "I was very scared," she told *Refugee Reports*. But they were immediately met by their sponsor, who drove them to West Liberty, and took them right to their new home, a fully furnished apartment on the town's main street.

Although West Liberty was very different from what Nguyen expected the United States to be like, she says that her first impressions were very positive. "We were so worried about how we would live when we got to the United States," Nguyen said, "but the church helped me with a house, furniture, and food. They took care of my family."

Verhelst told *Refugee Reports* that most of the refugees resettled in West Liberty grow attached to the town, and few move elsewhere. In fact, there has been some secondary migration to

Mot Nguyen outside her apartment on West Liberty's main street. *USCR/H.Ruiz*

West Liberty from other parts of the country. "The availability of employment is the biggest attraction," Verhelst said, "but the small town atmosphere is appealing to many refugees. Many understand some of the problems in large cities, particularly drugs, and they are glad to get their kids away from them."

Nguyen says that within a month of the family's arrival, her husband was working at the turkey processing plant. A month later, she too was offered a job there. "I wasn't like other people who thought everybody in America is rich," Nguyen said, "I knew I would have to work hard." Nguyen has visited several towns in Iowa, but has not yet traveled farther afield. She's says that her children are better off in West Liberty, away from the gangs that she's heard about in big cities.

"They have a better future here," she said.

Despite its size, West Liberty is not immune to social problems, including drugs. There have been some clashes between whites, Hispanics, and Asians at the local high school. According to Si M. Luong, a case manager with the state's Bureau for Refugee Programs, similar incidents in Davenport, Iowa, have been investigated and the cause has generally been found to be miscommunication and lack of understanding of different cultures.

The incidents in West Liberty are a far cry from events in another Iowa town, Dubuque, where racial unrest has been characterized by more than 10 cross burnings and arrests at the local high school following racially motivated fighting. Vu, Nguyen's oldest son, says that he's aware of the tensions between different groups at his school, though he doesn't understand what causes them. "I'm very friendly, and I try to make friends with the Laotians, the Americans, and the Mexicans. But most of the time, the three groups don't mix."

Vu admits that he found West Liberty "a little boring at first," but that he and his cousins, who recently moved there from Pennsylvania, drive to nearby Iowa City when things get a bit slow.

Job Board

The Refugee Policy Group (RPG) is accepting applications for several positions:

Associate Executive Director This management position requires a knowledge of refugee or related humanitarian issues and programs. Will be responsible for management activities in: fundraising; public affairs and reports; planning, scheduling, and budgeting; personnel policies, program monitoring, financial and grants management, and board/advisory council development and relations.

Senior Policy Analyst Will direct policy research projects; organize convenings; build and represent RPG's network of contact on selected issues; give presentations; supervise program staff. Should have substantial prior experience at a senior level in policy-related positions in the refugee or related field.

Program Associate Will manage RPG's Resource Center. Responsibilities include: ensuring the collection and management of documentation; coordinating RPG's mailing lists; preparing briefing materials, bibliographies, and other materials related to refugees. Must have excellent organizational, research, and analytical skills.

Research Assistant/Associate An entry or mid-level professional is sought to conduct policy research, help organize convenings, and provide assistance to researchers. Must have excellent research and analytical skills and superior written and verbal communication skills.

Send a letter and resume to Dennis Gallagher, Executive Director, Refugee Policy Group, 1424 16th St., N.W., Suite 401, Washington, DC 20036.

Position Opening--Policy Analyst
U.S. Committee for Refugees

USCR is seeking applicants for a position as policy analyst in its Washington-based office beginning May 1, 1992. The person will be responsible for research, writing, and public speaking about issues affecting protection and assistance for refugees and internally displaced people worldwide. He or she will handle research and analysis on specific regions of the world, track legislation through Congress, and cover the U.S. government's budgetary process and its impact on refugees.

Writing assignments will include issue papers, articles for *Refugee Reports*, country reports for the *World Refugee Survey*, Congressional testimony, op-ed pieces, and press advisories.

Applicants should have proven research and analysis experience, excellent writing and speaking abilities, and experience in the human rights/refugee field and legislative/budget process.

Please send cover letter, appropriate writing samples, resume, salary requirements, and references to Virginia Hamilton, Assistant Director, USCR, 1025 Vermont Ave., NW, Suite 920, Washington, DC 20005. No phone inquiries. Closing date for applications: March 14, 1992.

Meetings and Conferences

REFUGEE LAW SEMINAR IN MINNEAPOLIS

The Minnesota Lawyers International Human Rights Committee, with other refugee, human rights, and law groups, will sponsor a major seminar, International Refugee Law and U.S. Asylum Procedures, at the University of Minnesota Law School, March 23-26, 1992.

Among the topics to be covered are: UNHCR operations in different regions; refugee policy issues; asylum law and procedures; asylum deportation defense.

For further information contact Nancy Arnison, Minnesota Lawyers International Human Rights Committee, 400 Second Ave., Suite 1050, Minneapolis, MN 55401. (612) 341-3302.

Correction Notice

We reported an inaccurate Reuters story in Vol. XII, No. 11 that Southeast Asian refugees were found to have among the world's highest levels of hepatitis B. The actual report, issued by the Centers for Disease Control, was based on data collected by clinics that screen all incoming refugees for the hepatitis B antigen. Among refugee groups tested, crude prevalence rates for the infection were highest among Southeast Asian refugees (11.7-15.5 percent), intermediate among refugees from Africa, and lower among refugees from other Asian countries, such as Afghanistan (4.1 percent) and Iran (2.4 percent). Crude prevalence rates were substantially higher for refugees from Bulgaria (5.3 percent) and Romania (4.1 percent) than among refugees from other eastern European countries, who had the lowest rates for all refugee groups tested. The CDC warns that U.S.-born infants of women who have emigrated from Afghanistan, Angola, Bulgaria, Cambodia, Ethiopia, Iran, Iraq, Laos, Romania, Thailand, and Vietnam are at substantial risk for HBV infection through perinatal or early childhood transmission.

STATUS OF HAITIAN BOAT PEOPLE
September 30, 1991-January 30, 1992

Ashore at Guantánamo Naval Station	9,748
Aboard Coast Guard Cutters	1,986
Aboard U.S. Naval Vessels	0
Screened and Brought to U.S. (of 3,445 screened-in to date)	1,402
Screened and Repatriated to Haiti	538
Medically Evacuated to U.S.	2
In Safe Haven in Honduras	146
In Safe Haven in Venezuela	27
Voluntary Returnees	594*
TOTAL INTERDICTED TO DATE	**14,443**

*73 from Venezuela, 104 from Honduras, and 417 from Guantánamo

Source: U.S. State Department, Bureau for Refugee Programs

REFUGEE REPORTS is published monthly for $37.50 per year for one subscription, $25.00 each for two or more subscriptions to the same addressee, or $25.00 each for ten or more subscriptions requested at the same time, mailed to separate addresses; overseas postage is an additional $24.00 for second class or an ~~additional~~ $75.00 for airmail; by ACNS, 95 Madison Avenue, Third Floor, New York, NY 10016. Second Class Postage paid at New York and additional mailing offices. POSTMASTER: send address changes to *Refugee Reports*, Sunbelt Fulfillment Services, P.O. Box 41094, Nashville, TN 37204.

Editorial comments and inquiries should be sent to : *Refugee Reports*, 1025 Vermont Avenue NW, Suite 920, Washington, DC 20005. All communications regarding subscriptions should be sent to: *Refugee Reports* Subscriptions, Sunbelt Fulfillment Services, P.O. Box 41536, Nashville, TN 37204. (615) 377-3322.

Basic subscription rate for 12 issues per year: $40.00; Multiple-copy rate: $25.00; Single copies of back issues: $4.00
Co-Editors: Bill Frelick and Virginia Hamilton; Staff Writers: Court Robinson and Hiram A. Ruiz
Distribution Manager: Carolyn Moore; Production Coordinator: Koula Papanicolas
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Refugee Reports

A News Service of the U.S. Committee for Refugees, a Project of the American Council for Nationalities Service
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A News Service of the U.S. Committee for Refugees
1025 Vermont Avenue NW, Suite 920 Washington, DC 20005 (202) 347-3507

Volume XIII, Number 2 **February 28, 1992**

HAITIAN REPATRIATES: A WELL-FOUNDED FEAR?

Allegations of killings, arrests, and torture of the first group of repatriated Haitians returned to Port-au-Prince on November 18 became one of the central issues in determining whether or not forced repatriations to Haiti should be halted. Yet, during the critical days in mid-February when the issue was being debated in Congress and presented to the Supreme Court, only a handful of transcripts of interviews with repatriated Haitians who fled a second time--double-backers--were circulated among those making potentially life and death decisions.

Five of the UN interview transcripts were released initially by the Lawyers Committee for Human Rights, and--though others were subsequently released--attention centered on those first five. A State Department official announced to the press, "We've not found information to corroborate these stories; we don't have evidence that people are being persecuted upon going back."

The State Department said that U.S. embassy officials went to the home towns of those making allegations to find corroborating witnesses. In one case, the embassy officer said that he interviewed two men who were allegedly killed by police after the Coast Guard returned them to Haiti.

The complete batch of testimonies includes many more specific allegations of abuse--shootings, beatings, imprisonment, killing--than those appearing in the original five transcripts. It is unclear, however, how many of these came to the attention of the Supreme Court or to members of Congress during their deliberations or what efforts to investigate the allegations have been made.

The larger collection of testimonies--taken individually and privately--often seem to corroborate each other. Almost all of the repatriates spoke of threats by soldiers around the dock area where they disembarked. Many said that they witnessed specific shooting incidents within a short radius of the docks, on November 18, the day of their forced return. These separate testimonies include:

- seeing soldiers shooting at a group of repatriates about 5 pm at the Boulevard de la Saline near the dock area where the repatriates had been disembarked;

IN THIS ISSUE:

Do the Haitian asylum seekers who have been involuntarily repatriated by the U.S. government face persecution upon their return? The State Department says no. Transcripts of interviews conducted with Haitian "double-backers"--repatriates who fled a second time--tell a different story. Bill Frelick reports 1

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- witnessing a shooting and chasing of repatriates in the dock area of Bizoton near Carrefour;
- seeing the bullet riddled body of a repatriate identified by name lying on the Rue Tirmasse near the Red Cross building where repatriates were processed;
- being part of a group of repatriates who were shot at on Blvd. Jean Jacques Laissant, near the bus station, two of whom were seen to have been killed;
- fleeing the spot near the Red Cross where soldiers opened fire, and seeing two repatriates, identified by name, who were shot in the foot and arm.

Nearly all of the double-backers also reported being sought after by soldiers after returning to their home towns. Some spoke of relatives being killed, abducted, or arrested during these searches. The detailed assertions included many specific names, places, and dates.

What follows are verbatim excerpts from the double-backer transcripts (the names have been changed):

Case One *"Andre" was forcibly repatriated on 18 Nov. He reports that the Port-au-Prince pier was full of soldiers. As the soldiers organized the repatriates into two lines, they threatened Andre and those around him, declaring that they would kill the returnees because they had left their country and denounced the Haitian military authorities...[processing in the Red Cross building is described, including the presence of police in blue uniforms inside the building]. Andre estimates that he left the Red Cross building at 5 pm and began to walk away from the dock area. As he came to Boulevard de la Saline, Andre saw soldiers shooting at people coming from the dock area and witnessed the shooting death of a man he recognized as a fellow repatriate. Andre panicked and, in an effort to escape, ran toward the water, dove in, and began to swim away....*

After he arrived in XXXX, Andre reunited with his wife and brother, whom he had last seen in the Red Cross building.... His wife and brother related to Andre that they too had been forced to flee the dock area because fellow repatriates were being shot by soldiers.

Case Two *....When "Pierre" and his wife left the Red Cross building, it was dark. They heard shooting by the dock area. Pierre and his wife began to walk to his aunt's house in XXXX. When they approached the dock area of Bizoton near Carrefour, they saw soldiers shooting at a group of men. Pierre and his wife ran....*

Two days after Pierre's return to XXXX, soldiers barraged his house with bullets, killing Pierre's father within. When the soldiers had arrived, Pierre and his wife had been behind the house and they hid in the brush. After the rampage, a neighbor informed Pierre that, as they were leaving, the soldiers proclaimed that they had come to kill the FNCD delegate who had been returned. Pierre describes that the local military had been informed of both his political affiliation and his repatriate status by his political opponents.

Case Three *"Michelle" describes that the docks were teeming with Haitian soldiers.... While Michelle and her family were going through the Red Cross processing, her cousin, XXXX, asked a soldier why her name had not been called by the Red Cross and whether she could receive $10 dollars so that she could make it home. In response, the soldier began to shout at the cousin.... As the cousin exited the facility, Michelle noticed that the soldier to whom the cousin had posed the question followed her cousin out the building. Michelle estimates that she and her sister left the Red Cross facility at 5:30 pm. They began to walk away from the docks.... As they began to walk up Boulevard de la Saline, Michelle and her sister came upon the body of their cousin, XXXX, the repatriate who had left the Red Cross facility earlier. The body was riddled with bullets....*

[After returning home] The judge entered Michelle's home, beat, and arrested her. Michelle was imprisoned for a week. The military guards in the prison told Michelle that she would be killed because she had been a member of the FNCD and because she had left Haiti. While in prison, Michelle was beaten by the guards. After one week, she was released from prison, without explanation. The soldier who gave the order for her release told Michelle, however, that even if she was not killed that day, the soldiers would soon track her down and kill her because of her repatriate status.

Case Four *"Jerome" went into hiding immediately upon arrival. Two days later, his 16-year-old daughter...was able to join him in hiding. Jerome's daughter...informed him that the local military in XXXX had come to look for him. They had warned her that they would return, and had said that she would "replace" her father in prison if he did not give himself up to the authorities.*

Case Five *"Joseph" left the [Red Cross] premises at approximately 7 pm. While leaving the building, he* *was beaten on the face by a soldier.... Joseph fled the area in a panic, and went into hiding in the brush. He claims to have heard the sound of automatic weapons all day and night....*

Upon reaching his domicile, however, he found that his father and sister had been arrested. According to one of his friends who had witnessed the arrest from afar, Joseph's family had been arrested due to the fact that they were family members of a known Lavalas supporter and repatriate.

Case Six *On 20-21 Nov., "Samuel" heard news of other repatriates on the radio station Radio Galaxie. The radio reported that the soldiers had beaten and shot many of the repatriates who returned to Haiti on a U.S. Coast Guard cutter on 19 Nov. The report detailed that these murders had taken place on the streets near the dock area, as the repatriates were searching for transportation home....*

On 27 Nov., soldiers came looking for Samuel at his father's house in XXXX. After Samuel's father refused to divulge his whereabouts, the soldiers shot the father dead.

Case Seven *"Bertrand" chose to leave the [Red Cross building] by the back door since he wished to avoid detection by the military. Upon leaving the premises, he turned into Rue Tirmasse, where he saw the body of his cousin and fellow-repatriate, XXXX, lying on the road with bullet wounds in the head....*

On the day of Bertrand's arrival in XXXX, soldiers came to his house to look for him.... He escaped by breaking a window in the back of the house and fleeing into the brush. His mother remained in the house and was beaten and arrested by the military.

Case Eight *"Charles" left the [Red Cross] building at approximately 6 pm, with a group of 17 other repatriates. He states that as the group turned into Blvd. Jean Jacques Laissant, towards the bus station that would take them back to XXXX, a group of military officers approached them and accused the group of having denounced the Haitian military to the U.S. authorities. The soldiers then started shooting at them. Two of the persons in the group were killed.*

Case Nine *..."Robert" states that he had an INS cutter interview that lasted 3-4 minutes. He asserts that he did not have adequate opportunity to describe his political activism and his fear of persecution.... [Robert also describes the processing of repatriates, and the presence of soldiers and armed civilians in the Red Cross facility.] Robert left the Red Cross facility at approximately 7 pm accompanied by his wife. Soldiers still surrounded the facility exit.... As Robert and his wife entered the taxi, he saw three policemen get into a Datsun behind the taxi. The Datsun followed the taxi, keeping a short distance. When the taxi stopped at Robert's destination, XXXX, the Datsun stopped behind the taxi. As Robert's wife was getting out of the taxi and he was paying its driver, the policemen ran out of the Datsun and captured Robert's wife. Robert began to run. [He describes the chase, and his escape.] Robert has heard no news about the fate of his wife since her abduction.*

Case Ten *...."Auguste" then hailed a passing truck going in the direction of XXXX. When he got in the truck, however, he found that it was full of soldiers from Port-au-Prince who were traveling to XXXX. Auguste recognized some of the soldiers as having been on duty on the docks on 18 Nov. Some of the soldiers noticed Auguste's agitation, and questioned him as to the reason. Auguste claims that one of the soldiers then recognized him as being one of the...[repatriates]. He was taken to the prison in XXXX and kept there for three days..... Auguste was incarcerated without food and beaten several times.*

Case Eleven *"Marc" went to his mother's house in XXXX, where she informed him that XXXX, a friend and fellow repatriate, has been arrested by the military in XXXX, for having denounced the Haitian authorities to the U.S. Marc's mother had witnessed the arrest while in XXXX, and had told Marc that XXXX had been beaten by the military during his arrest. Marc's mother also informed him that his wife, XXXX, had been arrested by the military, taken to the barracks, threatened, and slapped on the face in an attempt to glean Marc's whereabouts.*

Case Twelve *"Antoine's" father, a member of the Lavalas Party, was shot dead on 1 Nov. 91. Antoine was a member of XXXX, a pro-Aristide youth group. After soldiers came to his house to question him about his political activity, Antoine fled to XXXX and left Haiti on 13 Nov. He fled along with his cousins, XXXX and XXXX....*

The cutter [repatriating Antoine] arrived in Port au Prince on 18 Nov. The pier was full of soldiers....

While Antoine and one cousin waited near the dock area for transportation to XXXX, they heard shooting at the docks. As she ran by them, one woman exclaimed that a passenger from their boat had been shot. Because of the shooting, Antoine and his cousin ran from the dock area. They separated and Antoine took side streets to his home in XXXX.

During Antoine's second day at home, soldiers came to his house and asked for him. His mother told them Antoine was not there. That same day, soldiers *went to the house of Antoine's cousin, XXXX (who had been repatriated with Antoine and had given the military his address at the docks), and arrested him. This cousin's body was found that same day on a street some distance from his house. The body was dressed in military clothing and riddled with bullets. Antoine did not see the corpse but his mother described the scene to him.*

During the late afternoon of that same day, soldiers came to Antoine's house and arrested him. Antoine was handcuffed, shoved into a military truck and taken to the National Penitentiary. At the prison, he was put into a room with twelve other people. Antoine recognized five of these people as members of the group that had been repatriated with him on 18 November. They were all from Port-au-Prince and included: (1) XXXX, (2) XXXX, (3) XXXX, (4) XXXX, and (5) XXXX.

The detainees were beaten daily with wet towels and were never fed. Antoine was not beaten and was fed because the soldier who was ordered to guard the cells had been his classmate.... Antoine's friend told him to move to the back of the cell each time he knocked to retrieve prisoners. Antoine observed some of the beatings through a small hole and heard screams. His friend, the prison guard, described other beatings to him and told him that some of the detainees had already been killed because they had fled Haiti. This guard told Antoine that the others would also be killed for the same reason.

Antoine was detained for three days. His friend planned an escape by bringing him a woman's outfit. During the third day of detention, Antoine escaped from the prison, disguised as his friend's girlfriend. Antoine went to his home.

The next day, Antoine's friend, XXXX, went to his house and informed Antoine that the prison chief had noticed his absence and demanded that XXXX bring him forward. This friend urged Antoine to leave his neighborhood and told him that he himself was going to escape to Santo Domingo....

Upon arriving in XXXX, Antoine met briefly with his grandfather, who gave him food and told him to stay in hiding. His grandfather informed him that he had heard Antoine's name announced on the radio, as a prison escapee who must be caught....

Case Thirteen *...."Jacques" left the Red Cross Building between 6-7 pm. As he walked toward the dock exit in the dark, he was accosted by a soldier who demanded his name and address. The soldier then asked him whether he had come from the boat. Jacques responded that he had come to find a relative.*

As he left the dock area, Jacques heard shots nearby and fled. He ran into a friend, walked for two hours, and then slept by the roadside. The following morning, Jacques heard that people from the American boat had been killed. Jacques walked toward the docks and saw the body of a repatriate that had been returned with him. Jacques did not know the person by name.

Jacques then took a bus home to XXXX. His mother told him that soldiers had come to the house several times asking for him. Neighbors told Jacques that the military was looking for the people who had been returned.

Jacques reports that, on 20 Nov., soldiers arrested three XXXX residents that had been repatriated with him. Jacques was in their neighborhood during the time of the arrests. Those arrested included (1) XXXX, (2) XXXX, and (3) XXXX. The men were apparently imprisoned and not heard from again. Family members reported to Jacques that a local judge, XXXX, had issued arrest warrants for the three men because they had left Haiti and criticized the Haitian authorities. Jacques also witnessed Judge XXXX chasing a female repatriate through town.

On 21 Nov., soldiers came to Jacques' house looking for him. Jacques was not home but observed the scene from a distance. The soldiers then looked for Jacques at his girlfriend's parents' house, where he had been hiding. Jacques hid behind the house while the soldiers questioned the parents. Jacques went into hiding and started to make his way to XXXX....

Case Fourteen *...."Henri" was informed by close friends that the military was searching for 17 persons in his neighborhood who were targeted as Aristide supporters and as repatriates. The 17 names had been announced at the barracks/station ("caserne") which Henri claims were provided to the seven military posts between XXXX and Port-au-Prince.... Three days later, soldiers in a white car came to Henri's house to arrest him. Henri escaped from his house through a back window....*

Case Fifteen *"Pierre" noted the presence of military, both in uniform and civilian clothing, on the docks. Pierre was able to identify the civilians as members of the military due to the semi-automatic weapons they were toting. Several soldiers had the repatriates form two lines and led them into the Red Cross building. In the building, the Red Cross read the individual names from a manifest, in the presence of military officials....[the process is described]*

[Pierre then describes the trip home.] The bus was stopped at XXXX, where a military checkpoint was systematically searching all vehicles. Three soldiers approached the bus. One ordered the driver and two passengers on the front seat out of the van. An-

other entered the bus while the third blocked the bus door.

The soldier on the bus was recognized by Pierre as having been implicated in the murder of a young teenager in XXXX. This soldier asked for those who had been returned to Haiti by boat. The passengers remained silent. In response, the soldiers put a gun to the head of one of the passengers who had boarded the bus at the dock. The threatened passenger pointed toward a group of passengers in one area of the bus. The soldier then beat these passengers with his rifle butt, while his colleague continued to block the bus exit.

The soldier once again put his weapon to the passenger's head and demanded that he single out those who had come from the docks. The passenger then identified individuals. The soldier handcuffed these people, forced them off the bus, and ordered them into a military truck. Pierre believes there were at least 20 people in the group taken off the bus. Pierre identifies all of these passengers as members of the group repatriated with him. Pierre describes that a woman, XXXX, whom he knew from XXXX and who had been repatriated with him, was part of the group pulled off the bus. She was ordered off the bus along with her husband and child....

Case Sixteen *"Paul" claims to have left the Red Cross premises at approximately 7 pm. When leaving the premises, he was hailed by two of his friends and fellow repatriates, XXXX and his brother XXXX, who had left the Red Cross immediately after Paul. As Paul turned to join his friends, he noticed a car which drew up by the side of the road, reversed, and came alongside the group. Paul then saw two men dressed in khaki uniforms of the Haitian military descend from the car and start shooting at the group without warning.*

Paul claims to have fled the scene in panic. He found shelter in a nearby abandoned shop (Marche d'Hippolyte), and watched as people started screaming and fleeing in all directions. He alleges to have seen people with their limbs shot, lying bleeding on the road. Amongst these last figured his two friends mentioned above. XXXX was shot in the foot and his brother was shot in the arm.

Case Seventeen *...."Willy" left the dock area between 8-9 pm, along with his sister-in-law, XXXX, and several other repatriates.... As they searched for a bus, Willy and the other repatriates felt threatened by the large presence of heavily armed soldiers on the streets immediately outside the dock area. The repatriates could also hear rampant shooting in the vicinity.... The repatriates decided to take a circuitous route to XXXX, in an attempt to avoid military checkpoints. As the group approached Bizoton, a port near Carrefour, they heard shooting. When they came to the pier area, soldiers started chasing them....Willy managed to escape into the darkness....*

Willy remained in hiding in XXXX, where he met several fellow repatriates, including XXXX. Willy recounts that XXXX suffered at the hands of the military in the Port-au-Prince area because they were repatriated. Willy corroborates XXXX's account of his experiences upon repatriation.

Corroboration Immigration and Naturalization Service (INS) asylum officers found 41 of the first 42 double-backers who gave these testimonies to have a credible basis for pursuing their asylum claims. The State Department, however, has continued to maintain that the testimonies have not been corroborated, and that "screened out" Haitians can be repatriated without risk of retribution.

The discrepancy, in part, stems from the differing standards of proof being used by State and Justice. By federal regulation (8 CFR 208.3), asylum officers are instructed that "if the applicant's testimony is credible in light of general conditions in the applicant's country, his testimony may be sufficient to sustain the burden of proof without corroboration."

Credibility for the State Department, however, appears to require an uncodified, higher level of objective corroboration within Haiti, which is complicated by the difficulty of gathering information on human rights under the present violent and repressive circumstances (see Resources on two human rights reports on Haiti since the coup).

On February 10, Romano L. Mazzoli, chairman of the House Subcommittee on International Law, Immigration, and Refugees, and four other members of the subcommittee wrote a letter to the State Department asking "how the State Department makes the assessment that repatriates are not in danger of physical harm."

The State Department responded in a letter saying, "When specific, detailed allegations of abuse are made, Embassy personnel conduct their own investigations to the extent resources permit. This was done most recently in connection with the allegations of a number of 'doublebackers' that they were persecuted following repatriation. In the investigations completed by the Embassy thus far, the charges of abuse were determined to be without foundation."

In response to a question about sources of information in Haiti from Rep. Mike Kopetski (D-Ore.) at a hearing on February 4, Ambassador Robert S. Gelbard, principal deputy assistant secretary for inter-American affairs, submitted a written answer saying, "The Embassy's Haitian contacts include large numbers of key figures in government and politics, at all levels and across the political spectrum, business persons, educators, the clergy, the media, health care workers, and human rights activists. The international community includes a large number of private voluntary agencies working throughout the country in such areas as agriculture, health care and education, missionary and other religious groups, representatives of international organizations such as the Red Cross, OAS and UNDP, human rights organizations, and the diplomatic corps."

Gelbard also said that the embassy operates a "warden" system of American citizens scattered throughout Haiti who give information on conditions outside the capital.

After listening to a similar explanation of the monitoring process by a State Department official at a February 19 hearing, Rep. Benjamin A. Gilman (R-N.Y.), who had returned from Haiti just the previous day, said, "From the testimony we heard while we were down there, it [i.e., the U.S. embassy's monitoring procedure] seemed to be a pretty loose process beyond just meeting and greeting them [the repatriates] and giving them a stipend."

Gilman went on to name two Catholic priests who, he said, had prepared reports that "did point out some violations of human rights with regards to repatriates."

Other Haitian sources have independently tried to provide corroborating evidence as well. The Rt. Rev. Archimandrite Michael (Graves), Vicar-General of the Orthodox Church of the Caribbean, wrote to the Haitian Refugee Center on February 2, saying, "I know first-hand of those who have 'disappeared' already following their forced 'repatriation' last month. I know first-hand of incidents of torture and punishment meted-out to those who have returned.... For God's sake, wake-up the authorities in Washington! If they need proof, just send one of them down here (preferably a young black man), and let them go around Port-au-Prince or Pétion-Ville and put-up pictures of President Aristide.... No need to send a delegation of advisors or inspectors...just send one young man here for two days (if he lasts that long) and see what happens to him."

Updates

- Kenya is experiencing up to 1,000 arrivals a day in the worsening refugee crisis resulting from inter-clan violence in Somalia. Some 250 people per day arrive along the Indian Ocean coast at Kilifi, Malindi, and Lamu, bringing the phenomenon of "boat people" to Africa, a continent where refugees traditionally fled across borders on foot. Inter-clan battles have now spilled into the camps themselves with shooting incidents nightly at the Liboi camp. The UN High Commissioner for Refugees (UNHCR) estimates the total number of refugees now in Kenya at 100,000, but relief agencies and Kenyan government estimates are even higher.

- Hundreds of Burmese Muslims are fleeing across the Naf River into Bangladesh each week. Between 40,000 and 60,000 Burmese Muslims have sought refuge in southern Bangladesh. The Muslims, a religious minority in predominantly Buddhist Burma, complain of rape, looting, and forced conscription at the hands of Burmese authorities.

- Canada, the United States, and Australia have agreed to resettle some 6,000 Gulf War Iraqi refugees who are in Turkey residing outside refugee camps on expired residence permits. As long as the "free livers" are registered with UNHCR or the International Catholic Migration Commission (ICMC), Turkish authorities have agreed to allow them to remain in Turkey despite the expiration of their residence permits. Nevertheless, Turkish police rounded up about 34 of the free livers and deported them in late January. All of those deported were known to UNHCR, although not yet recognized. Some were deserters from the Iraqi army.

On January 21, the police also brought 103 Iranians to the border in an attempt to deport them. Ninety were refugees recognized by UNHCR. After intervention by the Ministry of Foreign Affairs and others, the individuals were returned to Ankara on January 23 and released.

- On February 27, a bill calling for a six-month moratorium on forced repatriations of Haitians who, as of February 5, were aboard Coast Guard cutters or held at the U.S. naval base at Guantánamo Bay, Cuba, passed the House by a 217-to-165 margin. A similar bill had not yet been voted on by the Senate.

- A majority of Floridians believe that Haitians should be allowed to stay in the United States until it is safe for them to return home, according to a poll conducted by the *Miami Herald* and a local television station. It showed that 57 percent of Florida residents support allowing the Haitians to stay. Among Latinos and blacks, support is especially strong at 80 percent. Support for the Haitians cuts across racial, ethnic, and even partisan lines, according to the survey. Resentment tends not to be expressed toward the asylum seekers, but rather toward the federal government, which is perceived as having done little to help the state defray the costs associated with absorbing the arrivals of Cubans and Haitians in the past.

- An additional 200,000 undocumented aliens may be eligible to apply for amnesty after two February decisions in California's Ninth Circuit Court of Appeals. In *Catholic Social Service v. Meese* and *Lulac v. INS*, the plaintiffs successfully challenged INS regulations that excluded from the amnesty program people who briefly travelled outside the United States during the application period (May 1987 to May 1988) or during the period of required residence between 1982 and 1986.

The court ruled that the INS misinterpreted congressional intent that the affected aliens have "ample and meaningful opportunities to apply for adjustments of status." In both cases, the appeals court further upheld a federal court ruling that the INS publicize its mistake and allow those affected an additional three months to file applications. The INS plans to appeal the three month application extension to the Supreme Court.

- The INS has reduced the work authorization fee for Salvadoran temporary protected status (TPS) reregistration effective February 14. The new fee, reduced from $60 to $20, stems from the settlement reached in *Cortez v. Barr*.

Under §303 of the Immigration Act of 1990, INS was required to recover the costs of administering the Salvadoran TPS program. As initially constituted, registration cost and the I-765 work authorization were paid at each six-month reregistration. Although the six monthly registration fee was dropped and a family cap instituted in May 1991, the work authorization fee continued at each reregistration. According to INS, the fee reduction "is calculated to ensure that the combined fees for registration and work authorization collected from nationals of El Salvador in TPS will cover all costs of program administration but *will not generate surplus* [emphasis added] through June 30, 1992," the termination date of the program.

- The INS will increase staffing by 7 percent or 1,200 positions. Added staff will augment patrols on the country's southwest border (300 officers), increase airport inspections, and ease the backlog or immigration (250 temporary positions) and asylum applications (100 asylum officers). Part of the new contingent of employees will also include 150 investigators to combat crime by undocumented entrants and 50 investigators to enforce employer sanctions. The INS will cover $80 million of the projected $102 million cost through increased fees.

- The INS has revised the I-589 asylum application form. The correct application forms read (Rev. 08-01-91). Asylum applications on the old forms will no longer be accepted.

The older version had been criticized as overly concerned with immigration and biographical information at the expense of questions central to asylum claims. By contrast, the revised form concentrates heavily on the reasons for an applicant's claim of fear of persecution.

- The Federal Office of Refugee Resettlement (ORR) has published its proposed funding allocations for social services for refugee resettlement in FY 92. The $82.9 million is about the same amount as FY 91. Eighty-five percent, or $70.5 million, is available by allocation formulas. Most of that money, $67 million, is allocated based on each state's proportion of the total refugee arrivals within the last three years.

The remaining 15 percent will be used by ORR on a discretionary basis to fund special projects. These include reducing dependency in states with large numbers of refugees on public assistance and addressing the needs of populations who experience particular difficulty adjusting to life in the United States.

- The Department of Justice's Executive Office for Immigration Review (EOIR) has closed its offices in seven cities, compelling affected aliens to travel hundreds of miles to attend hearings. The closings, which took place on January 1, involve: Hartford, Conn.; Oklahoma City, Okla.; Philadelphia and Pittsburgh, Penn.; Portland, Ore.; St. Louis, Mo.; and Tampa, Fla., offices. The EOIR cites budgetary constraints for the closings, which have provoked widespread concern in Congress, and from attorneys, and from immigrants' rights groups.

- The U.S. Government Accounting Office (GAO) has concluded that the central address system in use by the EOIR is "inadequate" to provide proper notification to persons in deportation and enforcement proceedings. Under the Immigration Act of 1990, persons who fail to appear for scheduled deportation hearings will be subject to penalties, including possible entry of an *in absentia* order of deportation.

A central address system was needed to enable EOIR to provide adequate notice to aliens in proceedings. On August 31, 1991, the Attorney General certified that such a system was in place, theoretically permitting penalties to take effect as early as February 13, 1991. Yet in GAO's random sampling at four EOIR offices, 22 percent of the names and addresses in the central files contained inaccurately recorded names and/or addresses. The Department of Justice has not yet taken action in response to the report.

Recent Developments

RECENT KURDISH REFUGEE ARRIVALS REPORT ABUSES IN TURKEY

Although the United States had agreed to resettle about 3,000 Kurdish refugees during FY 91 who had fled Iraqi chemical weapons attacks in 1988, processing was put on hold after the Gulf War broke out (see *Refugee Reports*, Vol. XII, No. 2). In August, processing resumed when the Immigration and Naturalization Service (INS) began interviewing 747 refugees at the Diyarbakir camp. Of that number, 728 were approved for U.S. resettlement, and 251 arrived in September. In October and November, another 418 arrived.

A smaller number of Iraqi Kurds, 61, from the spring 1991 exodus were also resettled. These are persons who provided assistance to U.S. forces during Operation Provide Comfort and who, consequently, put themselves at particular risk of retribution at the hands of Iraqi intelligence and security agents.

The Refugees Speak Also beginning to emerge is the story of three years in Turkish refugee camps, which, with a few rare exceptions, were closed to the outside world.

The refugee story begins in September 1988 when Saddam Hussein's security forces began rounding up masses of people in the vicinity of Zakho. Thousands "disappeared" at that time, according to refugee accounts. "That's why we ran away," one refugee told *Refugee Reports*. Eyewitnesses to the chemical weapons attack on Kurdish villages in northern Iraq after an armistice was reached in the Iran-Iraq war also report having seen birds drop from the sky, followed by gruesome death, as victims' eyes would pop out

A Kurdish family recently resettled in Virginia. The eleven-year-old son told Refugee Reports *of his being beaten and kept in an underground cell in Turkey's Diyarbakir city prison.* *USCR/B. Frelick*

and their lips turn black.

The approach to the Turkish border at Hakkari was harrowing; on one side were Iraq's Republican Guards, on the other, Turkish border soldiers shot at them, as well. For seven days, the Kurds were trapped on the border without food, waving white flags and begging to be allowed in. Finally, trucks came and brought them to three sites: Diyarbakir, Mardin (Kizeltepe), and Mus.

Mardin and Mus have been harder for outsiders to reach than Diyarbakir, where the refugees say conditions are better. To this day, Mardin lacks permanent shelter; for more than three years, the people there have been living in tents--inadequate protection for winter cold and stifling furnaces in summer's heat. "Even the latrines are in tents," said one of the Diyarbakir refugees who had been in telephone contact with his compatriots in Mardin. Each camp had a single pay phone for its thousands of residents.

Diyarbakir looks quite different, an apartment complex, actually, of 75 buildings with six one-room flats per building holding about eleven persons per room. The whole thing is surrounded by a high fence and barbed wire. Every 20 meters is an armed guard. The single entrance to the camp is guarded by about eight soldiers. "We never had any contact with the guards," a 55-year-old man told *Refugee Reports*. "If you went to where one was standing, even to say, 'I need help, I want to go out,' he would shoot at your feet or beat you with a stick. They even had a little jail in the camp with a torture place. If someone did a minor offense they would be taken there for seven days. If a major offense, they would be taken to the jail in Diyarbakir."

A Child Abused However, an interview with an eleven-year-old boy revealed that even minor offenses committed by minor offenders could wind up in the Diyarbakir city prison. This boy, at age nine, was accused of saying bad words about Kamal Ataturk, the founder of modern Turkey, and of saying he wanted to be instructed in the Kurdish language instead of Turkish, the lan-

(continued on page 12)

MIGRATION AND REFUGEE ASSISTANCE
FY 93 BUDGET REQUEST (Dollars in thousands)

Activities	1991 Enacted	1992 Request	1993 Request	Increase or Decrease (-)
Refugee Assistance Overseas:				
East Asia	$39,000	$49,900	$48,750	-$1,150
Africa	85,200	87,100	104,000	16,900
Near East/South Asia	88,300	92,400	106,000	13,600
Western Hemisphere	9,830	4,000	4,500	500
Europe	--	--	2,000	2,000
Subtotal	222,330	233,400	265,250	31,850
Refugee Admissions	191,420	192,330	207,950	15,620
Other Activities	63,370	54,533	65,300	10,767
Administrative Expenses	8,528	10,294	11,500	1,206
Program Total	485,648	490,557	550,000	59,443
Persian Gulf Supplemental FY 91/92 Appropriation	75,000/a	--	--	--
Appropriation Total	$560,648	$490,557/b	$550,000	$59,443

/a Of which, $44,350,000 was carried forward into FY 1992. The available balance on January 1, 1992 was $35,350,000.
/b The FY 1992 estimate is the President's initial funding request. The Migration and Refugee Assistance appropriation is operating under a Continuing Resolution through March 1992.

Refugee Assistance:

The FY 93 request for assistance by geographic region is as follows:

EAST ASIA $48,750,000

Funds will be used to provide support for the Comprehensive Plan of Action adopted by the June 1989 International Conference on Indochinese Refugees and to support UNHCR activities for displaced Cambodians in the final phases of return to their home country. Assistance funds support the programs of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Border Relief Operation (UNBRO), the International Committee of the Red Cross (ICRC), and private voluntary ogranizations. These programs provide protection and assistance to Indochinese who have obtained first asylum in the region and for the approximately 360,000 Cambodians who have been in camps along the Thai-Cambodian border.

AFRICA $104,000,000

Contributions to UNHCR, ICRC, and private voluntary organizations will provide relief assistance and protection to more than 5 million refugees and displaced persons. Refugee needs are expected to remain high resulting from continued civil strife in the Horn, southern Africa, and West Africa. Repatriation opportunities in Ethiopia and elsewhere are expected to continue and merit strong support.

NEAR EAST/SOUTH ASIA $106,000,000

Contributions to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), UNHCR, ICRC, and private voluntary organization programs in the Near East and South Asia will support populations in need of humanitarian assistance. Particular emphasis will be placed on providing assistance for the 3.2 million UNHCR registered Afghan refugees.

WESTERN HEMISPHERE $4,500,000

Contributions to UNHCR, ICRC, and private voluntary organizations will support assistance programs for refugees and victims of conflict in Latin America and the Caribbean. These programs provide protection, care and maintenance, local resettlement and repatriation assistance to refugees and displaced persons throughout the region.

EUROPE $2,000,000

Contributions to international organizations and private voluntary organizations will be used for assistance needs of refugees and displaced persons resulting from civil strife and repercussions of nationalist developments.

Refugee Admissions:

The 1993 budget request of $207,950,000 will support admissions to the United States of up to 122,000 persons. This level of admissions reflects continuing needs in the East Asia program, including the special resettlement program for former reeducation center detainees, the Amerasian program, as well as the international agreement under the Comprehensive Plan of Action to resettle a share of screened-in refugees from first asylum. In addition, admissions of refugees from the former Soviet Union will continue at about the same level as the average for the past two years. The FY 1992 Presidential Determination ceiling of 132,000 refugee admissions included a one-time increase of 11,000 admissions from the former Soviet Union. Specific regional ceilings will be set by a Presidential Determination after the FY 1993 consultations process.

	FY 1991 Actual	FY 1992 Ceiling
East Asia		
1st Asylum	13,353	12,000
Orderly Departure Program (ODP)	22,469	21,500
Amerasians	17,662	18,500
Subtotal	53,484	52,000
Former USSR/Ind. States	38,661	61,000
Eastern Europe	6,855	3,000
Near East/South Asia	5,359	6,000
Latin America/Caribbean	2,237	3,000
Africa	4,424	6,000
Unallocated Reserve	--	1,000
Total	111,020	132,000

Other Activities:

Funding of $65,300,000 will support other refugee and migration assistance activities as follows:

- contribution to the ICRC headquarters budget ($7,700,000);
- assessed contribution ($6,500,000) and voluntary contribution ($1,000,000) to the International Organization for Migration (IOM).
- other Migration Activities ($100,000); and
- refugees to Israel ($50,000,000).

Administrative Expenses:

The request of $11,500,000 for administrative expenses will finance the salaries and operating expenses required to support 107 permanent staff (78 in Washington and 29 overseas) of the Bureau for Refugee Programs.

EMERGENCY REFUGEE & MIGRATION ASSISTANCE FY 93 BUDGET REQUEST (Dollars in thousands)

	1992 Opening Balance	1993 Replenishment
Emergency Fund	$51,725/a	$20,000

/a Of which, $31,725,000 was carried forward into FY 1992. The FY 1992 estimate of $20,000,000 is the President's initial funding request. The Emergency Refugee and Migration Assistance appropriation is operating under a Continuing Resolution through March 1992.

REFUGEE AND ENTRANT ASSISTANCE PROGRAM FY 93 BUDGET REQUEST (Budget Authority in thousands)

	1991	1992	1993
Refugee Assistance	$411,000	$411,000	$227,000

The Refugee and Entrant Assistance Program provides funding to states to help refugees become employed and self-sufficient as soon as possible after their arrival in the United States. For FY 1993, the budget provides $227 million, a reduction of $184 million below the FY 1992 level. In past years, the program has subsidized states for the cost of providing cash and medical assistance to refugees during their initial months in the United States. For 1993, the budget provides $50 million of this type of assistance only for refugee children who enter the United States unaccompanied by an adult, and for support for especially needy refugee families.

Source: Department of State, Bureau for Refugee Programs and Department of Health and Human Services, Office of Refugee Resettlement.

(continued from page 9)

guage of instruction at the camp school. For this offense, he and two of his friends were taken to the prison. Upon arrival, they were severely beaten with sticks and the guards threatened to kill them. "They beat me up real well, and then put me in a hole," he told *Refugee Reports*. The underground cell had only a small window for light and air. "It was a very big prison--two underground floors--but with very small cells. The three of us had to crouch down to fit. We had no food or water for two days."

After two days had passed, during which time his family back in the camp didn't know if he was alive or dead, the boy was taken out of the cell, beaten again, and taken back to the camp. His parents told *Refugee Reports* that upon arriving they saw that his body was badly bruised all over.

Other Abuses, Pressure To Leave The refugees also confirm earlier reports of a food poisoning incident in early 1990, when thousands became violently ill. A refugee told *Refugee Reports* that he was severely ill for eight days after eating the bread, which he said had a discolored appearance before being eaten. He said that no one was taken to the hospital at that time.

The refugees say that they were under constant pressure to repatriate. A 62-year-old man from Zakho said, "They kept telling us all the time that we had to leave. We had to go to Iran, France, the United States, or back to Iraq, but nobody was taking us." Pressure to return intensified whenever Saddam announced an amnesty. This man said that he guessed that several hundred returned from Diyarbakir in 1989 and '90 in response to announced amnesties. "No one knows what happened to them," he said.

Shortly before the Gulf War broke out, the vulnerability of the refugees in Diyarbakir deepened. They said that Iraqi security service agents came to the camp, and that the Turkish authorities helped them to pick out suspected leaders. First to be turned over to the Iraqis was Mohamed Simo, and, then, Mohamed Abu Zaid, nicknamed Gwada. Then 105 men were rounded up and turned over to the Iraqis. "They have not been heard from since," said a refugee. "They were killed."

After that, the refugees became very fearful and began bribing their way out of the camp. They estimate that during the next several months in early 1991 about 3,000 left and, with the help of smugglers, traveled to Greece. From there, many continued on to Germany to apply for asylum.

During the summer, when the masses of Kurdish refugees who gathered at the Turkish border following the collapse of the Kurdish revolt at the end of the Gulf War began pouring back into the safe haven zone in northern Iraq, the Turkish authorities again tried to coerce the refugees in Diyarbakir into going home.

"They started stopping food deliveries to the camp, during a two-week period," said one, "starving us." He said, "Even the UN was involved. The UN officials asked people why they were leaving. They said, 'We have nothing to eat here.' Then, they brought tractor-trailer trucks and took about 4,000 back to Iraq."

The refugees estimate that about 7,000 remain in Diyarbakir, including, in some cases, close relatives of the refugees who spoke to *Refugee Reports*. Although they agreed to have their names published, *Refugee Reports* has not done that for fear that some harm might befall them.

The State Department has indicated a willingness to resettle Iraqi refugees who arrived in Turkey in the spring 1991 exodus, and who have been living with temporary residence permits. If UNHCR determines a need, the United States has agreed to resettle about 2,000 of the 6,000 temporary residence permit holders. Late last year, the Turkish authorities had threatened to revoke their temporary residence permits, thus deepening their sense of vulnerability.

[*Refugee Reports* thanks Kurdish Human Rights Watch for arranging the meeting with the Kurdish refugees and for translating the interviews.]

Projects and Programs

BOSTON PROGRAMS ASSIST VICTIMS OF CRIME AND DOMESTIC VIOLENCE

Among the social services available to refugees in the Boston area are two projects that help individuals who have been victimized by others.

These are the Asian Women's Project, which provides services to women who are victims of domestic abuse, and the International Institute of Boston's Victim Assistance Service. Both projects are represented on the Asian Task Force on Domestic Violence, a group that does outreach and public education in Boston.

The Asian Women's Project (AWP) grew out of the work being done at one of two Boston shelters for battered women. Rev. Cheng Imm Tan, one of the workers at the Mission Hill shelter, found that to reach Asian women, different approaches were needed. According to Tan, hiring an Asian staff was important. Also, he said, "Most shelters wait for women to come to them, but to reach Asian women, you have to aggressively go out to them, to let them know that domestic violence is a crime, and to tell them that help is available."

A Private Matter "In the Asian community," Tan said, "domestic abuse is seen as a private matter. Women are expected to bear it, and the onus is on them to make things better. Culturally, it is difficult for them to seek help, even from relatives, because they too may blame the woman. There is a lot of shame associated with this issue, in large part because in the Asian community there is still very little understanding of the dynamics of domestic violence."

In Asian countries, there was at least the possibility that elders or religious leaders might offer some limited help, according to Tan. But in the United States, those networks don't exist.

Compounding the problem, Tan said, Asian women are "scared to death of the police and the courts--possibly even more than of the husband or boyfriend who is battering them." Also, if the batterer is her husband and the couple have children, the woman may be afraid of reporting him because she will be left alone with the children without any idea of how to survive in an unfamiliar environment.

AWP staff member Kim Hall told *Refugee Reports* about one of the clients the project has assisted. Tri (not her real name) and her common law husband had four children. For three years, he had been drinking heavily and beating her when drunk. AWP helped Tri to get a restraining order to prevent her husband from coming to the house. Although he did try to do so on several occasions, Tri called the police, and eventually he was arrested. Tri now attends a support group at the AWP. Not all women are so lucky. Tran told *Refugee Reports* of two cases in 1991 in which Asian men killed their wives.

To reach Asian women, AWP workers visit ESL (English-as-a-Second Language) classes, agencies that serve the Asian community, and also visit individual women at home. They produce and distribute literature on domestic violence in several Asian languages. AWP offers individual counseling, support groups, assistance in obtaining court orders, and referrals to the shelters.

Recovering from the Trauma of Victimization The International Institute of Boston's Victim Assistance Service assists clients of many different ethnic backgrounds, including Asians, Ethiopians, Latinos, and Haitians, who have been victims of crime. Among the crimes of which clients have been victims are racial and hate crimes, domestic abuse, sexual assault, robbery, and vandalism.

Many of the service's clients are people who became refugees because they had been victims of war or persecution in their own countries. As with the Asian women served by the AWP, they are often afraid of "authorities", including police and the courts. At the same time, according to Social Services coordinator Barbara Russell, "they tend to live in marginal situations that make them more vulnerable to being victimized."

One of the program's goals is to help clients recover from the trauma of victimization. Counselors help the client through the legal process, and offer continuing support. Victims of domestic abuse constitute the single largest group among the service's clients. "Some of our services are similar to those of the AWP," Russell said, "but even the services that AWP, the International Institute, and other groups provide to victims of domestic abuse are not enough to meet the need in the Boston area."

The Victim Assistance Service's staff includes Ethiopians, Vietnamese, and Laotians. It is funded in part through federal funds that became available under the 1986 Victims of Crime Act.

According to Russell, one of the most victimized groups that the service encounters is undocumented women. "Besides all of the cultural and language barriers, and because of their immigration status, these women are afraid to seek help from the authorities. Officially, they are supposed to be able to get police protection without being asked about their status, but few undocumented know this, and if they do, they may not trust it." Shelters do take undocumented women, but their attempts to connect the women to other programs usually fail because the women are ineligible. As a result, it is difficult to help them make any long-term plans. "They are just in the worst position of all," Russell said.

Reader Exchange

- The Committee for Repatriated Families from Kuwait (CRFK) has offered to assist evacuees from Kuwait, who were given residence and work authorization through January 1, 1996 (see *Refugee Reports*, Vol. XII, No. 11). CRFK was formed by evacuees themselves as a self-help organization. To contact them, call or write: Dr. Iyad Al-Shurafa, Chairman, CRFK, 22555 Nadine Circle # 149, Torrance, CA 90505. (213) 539-6073.

- The Central America Resource Center has core packets of human rights abuse documentation available to substantiate clients' asylum claims. Packets are for sale on El Salvador, Guatemala, and Honduras. Packet updates are available periodically by subscription. The center also conducts client-specific research. Contact them at P.O. Box 2327, Austin TX 78768. (512) 476-0130.

Meetings and Conferences

ICVA WORKING GROUP TO MEET IN NEW YORK

The International Council of Voluntary Agencies (ICVA) working group on refugees,displaced persons, and migrants will meet on March 26, 1992 at the United Engineering Center (room 125), 345 East 47th Street, New York, NY 10017. Panel discussions will consider internally displaced persons and voluntary repatriation. For further information, contact Jean-Pierre de Warlincourt, ICVA Geneva. Phone: (011) 41-22-732-6600. FAX: (011) 41 22 738-9904.

Resources

TWO NEW REPORTS ON HAITI DESCRIBE HUMAN RIGHTS ABUSES SINCE THE COUP

In the two weeks following the September 30 military coup that overthrew the Haitian government of Jean-Bertrand Aristide, 1,000 people were killed. Fear of oppression caused an estimated 250,000 people to flee Port-au-Prince.

Both *Return to the Darkest Days*, a joint publication of Americas Watch, the National Coalition for Haitian Refugees, and Physicians for Human Rights, and *Haiti, The Human Rights Tragedy*, published by Amnesty International in January, chronicle an appalling range of human rights abuses perpetrated after the fall of Aristide including killings, internal displacement, and repression of the clergy.

Darkest Days is noteworthy for accounts of the casualties and medical consequences, as well as a visit made to the National Penitentiary.

Included in *The Human Rights Tragedy* are numerous accounts of individual persecution as well as sections on abuse of children and violations against grassroots organizations.

Return to the Darkest Days, Human Rights in Haiti since the Coup is available for $3.00 from Physicians for Human Rights, 100 Boylston Street, Suite 620, Boston, Mass. 02116. (617) 695-0307.

Haiti, The Human Rights Tragedy, Human Rights Violations since the Coup can be obtained for $3.00 from Amnesty International, 322 Eighth Avenue, New York, New York 10001.

WASTE, MISMANAGEMENT FOUND IN U.S.-FUNDED PROJECT FOR BULGARIAN TURKS IN TURKEY

In a December 1991 report, *Refugees: U.S. Assistance to Bulgarian Ethnic Turks in Turkey*, the U.S.

General Accounting Office (GAO) finds that halfway through the scheduled $10 million vocational training program funded through the U.S. State Department's Bureau for Refugee Programs (BRP) only about 15 percent of the targeted unskilled Bulgarian ethnic Turks had completed vocational training courses and only about 6 percent of the total had attended the project's orientation classes.

"At the time of our review," said the GAO, "the State Department's Bureau for Refugee Programs and the U.S. Embassy at Ankara were not adequately monitoring the project's progress, and the UNDP [United Nations Development Program] project personnel were not properly verifying project expenditures."

The GAO found that a Turkish government agency, the Turkish Employment Organization (TEO), was paid $389,801 for 45 vocational training courses that were never held, and that 33 of these courses, valued at $285,000, were certified for payment by the project staff and paid for by the project funds through UNDP.

BRP assured GAO investigators that the project was "progressing well," said the report. "They were unaware of the project's slow progress and UNDP project management difficulties."

The $10 million project, originating in an FY 90 foreign operations appropriations earmark, was originally intended to provide "food, shelter, and other basic needs" to assist Turkey in assimilating some 220,000 ethnic Turks who fled from Bulgaria in 1989. The funds were transferred to vocational training and job placement programs after Turkey succeeded in meeting the basic needs of the ethnic Turks.

However, the GAO questioned the need even for the job program. According to UNDP and TEO officials, the GAO found, "Vocational training candidates are becoming increasingly difficult to find because most Bulgarian ethnic Turks in Turkey are now employed and are reluctant to attend courses at night or on weekends."

The 8-page report is available free of charge from the U.S. General Accounting Office, P.O. Box 6015, Gaithersburg, MD 20877. The document number is GAO/NSIAD-92-59.

NEW WAVE OF KURDISH REFUGEES FROM IRAQ, SENATE STAFF REPORTS

Another 300,000 Kurds have been displaced in Iraq since September, according to a January staff report of the Senate Subcommittee on Immigration and Refugee Affairs. In all, some 900,000 Kurds remain at risk of violence and serious deprivation, the report found.

"Continuing repression of the Kurdish population by Iraqi forces has caused a new wave of refugees at the worst possible time," said Sen. Edward M. Kennedy, chairman of the Senate refugee subcommittee, on releasing the report, "and has placed unexpected strains on international efforts to provide shelter and food just as the winter season begins."

The report credits Operation Provide Comfort with overcoming the refugee crisis last spring. However, it says, "The refugee problem continues, and unless the international community takes steps over the next few months to ensure the security of the Kurds, the extraordinary gains of the last year may be lost."

The report notes that the Allied "security zone" is limited to a small portion of Iraq north of the 36th parallel, thereby providing "no security to the estimated two million Iraqi Kurds living outside the zone who are under constant threat of attack and intimidation by Iraqi forces and secret police." Unless the zone is extended, says the report, the flow of Kurdish refugees will continue.

But the real solution to the plight of the Kurdish refugees and the establishment of long-term security in Kurdish areas is adequate resolution of the political status of Kurds in Iraqi society, the staff report observes, which will require international pressure to achieve.

U.S. policy, the report recommends, should not simply be to promote the elimination of Saddam Hussein. "The United States must begin working actively with Iraqi opposition groups, including Shi'ite leaders, to promote the establishment of democratic government in Iraq."

The report, *Aftermath of War, Part II: The Plight of the Iraqi Kurds a Year Later*, is available from the Senate Subcommittee on Immigration and Refugee Affairs, 518 Dirksen Senate Office Building, Washington, DC 20510. (202) 224-7878.

Part I of *Aftermath of War* was released by the subcommittee on May 20, 1991.

ANTICIPATED REFUGEE REPATRIATIONS IN 1992

Afghanistan	200,000
Somalia	400,000
Liberia	430,000
Mozambique	135,000
Angola	300,000
Burundi	100,000
Rwanda	55,000
Sierra Leone	170,000
South Africa	15,000
Cambodia	370,000
Laos	8,000
Vietnam	20,000
Nicaragua	5,500
Guatemala	10,000
El Salvador	3,000
Chad	20,000
Haiti	15,000

Source: UNHCR

REFUGEE REPORTS is published monthly for $37.50 per year for one subscription, $25.00 each for two or more subscriptions to the same addressee, or $25.00 each for ten or more subscriptions requested at the same time, mailed to separate addresses; overseas postage is an additional $24.00 for second class or an additional $75.00 for airmail; by ACNS, 95 Madison Avenue, Third Floor, New York, NY 10016. Second Class Postage paid at New York and additional mailing offices. POSTMASTER: send address changes to *Refugee Reports*, Sunbelt Fulfillment Services, P.O. Box 41094, Nashville, TN 37204.

Editorial comments and inquiries should be sent to : *Refugee Reports*, 1025 Vermont Avenue NW, Suite 920, Washington, DC 20005. All communications regarding subscriptions should be sent to: *Refugee Reports* Subscriptions, Sunbelt Fulfillment Services, P.O. Box 41536, Nashville, TN 37204. (615) 377-3322.

Basic subscription rate for 12 issues per year: $40.00; Multiple-copy rate: $25.00; Single copies of back issues: $4.00
Co-Editors: Bill Frelick and Virginia Hamilton; Staff Writers: Court Robinson and Hiram A. Ruiz
Distribution Manager: Carolyn Moore; Production Coordinator: Koula Papanicolas
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Refugee Reports

A News Service of the U.S. Committee for Refugees, a Project of the American Council for Nationalities Service
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Refugee Reports

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Volume XIII, Number 3 **March 31, 1992**

ORR PROPOSES PRIVATE RESETTLEMENT PROGRAM IN FY 93

Faced with the prospect of drastic budget cuts in the coming fiscal year, the federal Office of Refugee Resettlement (ORR) has come up with a daring--some would say desperate--new proposal to shift responsibility for refugee cash and medical assistance from the states to the private sector.

Under ORR's proposed "Private Resettlement Program," voluntary resettlement agencies (volags) would replace the states as the administrators of cash assistance and other resettlement programs for nearly half of all refugees entering the United States in FY 93. For new arrivals who are not eligible for Medicaid, ORR would contract with private sector health providers.

While critics and supporters alike agree that the private sector approach constitutes what one called a "radical restructuring" of the domestic resettlement program, there is no agreement as to whether it represents a step forward, sideways, or back.

The volags have approached the ORR proposal cautiously but with interest, while the states and refugee mutual assistance associations (MAAs) generally have reacted with skepticism and even hostility.

If questions of funding and other issues can be resolved, said Ralston Deffenbaugh, director of the Lutheran Immigration and Refugee Service (LIRS), the new program "would put the voluntary agencies to the test to show what many have been saying for years--that we are better equipped than many government agencies to administer better services for refugees, more flexibly and more efficiently, and with more community and voluntary support."

"While we understand that resources are declining and difficult decisions must be made," countered a letter to ORR from ten MAA directors in Minnesota, "we wish to express our profound disappointment and displeasure with the changes in allocations and administration of the ORR budget.... Your proposed changes would seriously undermine MAA capability.... We are unalterably opposed to your proposal."

"It's a little like the blind men and the elephant," said

IN THIS ISSUE:

ORR's proposal to give voluntary resettlement agencies the responsibility for administering refugee cash and medical assistance in FY 93 has prompted considerable, sometimes heated, debate. Court Robinson reports 1

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Wayne Johnson, chief of Iowa's Bureau of Refugee Services. "There's nothing definitive on paper, but everyone is trying to describe the way it feels to them. All I know is if the states feel burned by the private sector program and back away, a real significant part of resettlement will be missing. I believe that the states must be a willing partner if resettlement is going to be effective."

Whether these and many other contrary views can be reconciled--in time to start a new program on October 1, or ever--remains to be seen. What is increasingly clear to most of the players in the domestic refugee program is that something has to give: there must either be more money, fewer admissions, or new ways of doing resettlement.

"Facing Terrible Budgetary Options" Unless Congress intervenes, ORR will have only $227 million to resettle an estimated 122,000 refugees next year. In FY 92, by comparison, the ORR budget was $410 million for a slightly larger number of admissions. The Administration's FY 93 budget request, moreover, provides for only $50 million for cash and medical assistance, of which $30 million is designated for unaccompanied minors and "especially needy refugee families." (See *Refugee Reports*, Vol. XIII, No. 2.)

At such levels, ORR officials estimate that FY 93 funds would be sufficient to cover only about five weeks of refugee cash and medical assistance (CMA) under the current state-administered program. Again by way of comparison, in FY 92, ORR covered eight months of reimbursement to states for CMA costs.

ORR has not paid the state costs for so-called "categorical" programs--Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), and Medicaid--since 1990. The CMA program covered public assistance costs for new refugee arrivals--single adults, for example, and childless couples--who were not categorically eligible for other programs.

Rather than simply eliminate the CMA program, ORR officials have proposed a private resettlement program for this caseload, estimated at 60,000 people in FY 93. Under this private scheme, the voluntary resettlement agencies would be given responsibility for providing transitional cash assistance and case management services to new arrivals. ORR, meanwhile, would pay for medical coverage through contracts with private health insurers.

At a level of $227 million, ORR has proposed making $74 million available to the voluntary agencies, which would provide them with roughly $1,200 per refugee. ORR officials estimate that this amount would cover about five to six months of income maintenance under a more cost-efficient private sector plan.

In order to make $74 million available for the voluntary agency program, ORR has indicated its plans to discontinue the existing matching grants program, to reduce targeted assistance from $48.8 million to about $40 million, and to cut the social services allocation from $83 million in FY 92 to $63 million next year.

ORR has allocated an additional $20 million to cover medical costs of new arrivals who are not eligible for Medicaid. Options that officials are looking at include community health centers and health maintenance organizations (HMOs).

"The proposed change, from a public to a private cash and medical assistance system, provides a longer period of assistance than possible under the state-administered CMA program," said an ORR fact sheet on the private resettlement program, "and creates an integrated public/private partnership among the states and private voluntary agencies."

States would continue to administer social service programs, targeted assistance, and the care of unaccompanied minors, said the ORR statement.

"We're facing terrible budgetary options in FY 93," said Jerry Tinker, staff director for the Senate Judiciary Committee's subcommittee on immigration and refugee affairs, which is chaired by Sen. Edward M. Kennedy (D-Mass.). ORR "is doing what needs to be done: creative thinking about worst case scenarios," Tinker told *Refugee Reports*.

"The ORR proposal is clearly budget-driven," said Wells Klein, executive director of the American Council for Nationalities Service (ACNS). "At a level of $227 million, there is no way that the current structure of the program could be maintained; the result would mean dumping refugees in local communities and on the private sector."

"From a voluntary agency point of view, the idea offers both opportunity and danger," Klein said. "We have long advocated and sought greater case management responsibilities up front, and the ORR proposal appears to represent this opportunity. Implicit in this proposal, however, is the danger of breaking up the long-standing coalition of states, MAAs, and voluntary agencies as each sector tries to protect its institutional and client interests."

Volags Seek More Funds, Wider Range of Services In a March 9 memorandum to ORR director, Chris Gersten, the chairman of InterAction's committee on migration and refugee affairs and director of World Relief, Don Hammond, wrote that "the voluntary agencies find much merit in the thrust of the ORR proposal." The letter went on to seek clarification from ORR on a number of specific issues including program funding, volag responsibilities, medical coverage, the role of the states, and the role of the MAAs.

"To meet the needs of our clients," said the InterAction memo, "$74 million for the voluntary agency program or $1,200 per capita, which presumably covers five months of transitional cash assistance, including social services and case management, administration, and possibly some medical costs, is insufficient." The voluntary agencies have said they are committed to seeking more funds for the resettlement program, at least a return to the FY 92 level of $410 million.

"The voluntary agencies are not principally interested in administering a refugee income assistance program," the memo continued, "or serving as substitute public assistance agencies." The InterAction statement asked ORR to give the volags clear responsibility for case management, transitional income assistance, and "controlling access to other social services."

"ORR should...ensure that some portion of the social services allocation to states be designated for newly arrived refugees," the volag memo said, "invested solely in employment and case management services and tied to the authority of the resettlement plans developed by the voluntary agencies."

Medical Coverage a Primary Concern The InterAction memo also called "the ability of the program to cover medical costs...a linchpin of the proposal." To ensure adequate medical coverage for refugees resettled under the private program, the voluntary agencies said that the ORR medical plan should:

- be applicable to any state and community in which refugees are resettled,
- cover pre-existing and catastrophic illnesses, pregnancy, preventive health care, and ensure at least 12 months of coverage,
- cover all family members, and
- involve no, or a very minimal, co-payment with equally low deductibles.

According to ORR officials, under the state-administered program, the cost of providing medical assistance to refugees who were not eligible for Medicaid was $65 million in FY 91, excluding state administrative costs. Under the FY 93 budget request, ORR will have about $20 million to spend on the same caseload.

ORR officials say that by opening the process to competitive bids from private health insurance organizations and HMOs, medical coverage could be provided to an estimated 55,000 to 60,000 refugees for a period of six months.

"You've got a lot of voodoo economics here," said Bruce Bushart, state refugee coordinator for New York. "I don't know how you are going to buy $65 million in services for $20 million."

"One of the things the private plan won't include is health screening," said Nady Tan, executive director of the International Refugee Center of Oregon, one of the largest MAAs in the country. "Without that, the door is closed to follow-up treatment." He said he was also concerned that newly arriving refugees could be required to make co-payments for health services. "Many of them won't go see a doctor in the first place. Now you expect them to pay too?"

States Say Shift to Private Program Will Cause Some to Shut Down Although the ORR proposal would leave the states with the administration of social services, targeted assistance, and the unaccompanied minors program, many of the smaller states could be forced to opt out of the national resettlement program, some state refugee coordinators are saying.

"The federal inconsistencies with [refugee] cash assistance have created deficits in most states, so transferring this relationship to the volags would be favored in many states," according to a discussion paper written by Oregon state refugee program officials and made available to *Refugee Reports.*

But "about 30 of the smaller states do not have access to targeted assistance, have access to only a small level of [social] services funds, and may or may not have an unaccompanied minors program," said the Oregon paper. "In most of these states, there will not be adequate funds available in which to charge for administrative costs and provide services. These states then will likely shut down. This would cripple a volag's attempts to effectively resettle refugees."

Bushart criticized the proposed start-up date of October 1 for the private resettlement program as "unrealistic and dangerous. We should not be drawn into something that isn't doable at $227 million. And we should not abandon what we have until we know what we're getting into."

Above all, said Bushart, "there is still a long-term need to work together in the resettlement arena. The way the ORR proposal has been presented, it has had the effect of hurting coalitions. We don't want to lose players at this stage. We're not smart if we lose states and lose MAAs."

MAAs Ask: "Who Is the Private Sector?" On March 24, Gersten met with representatives from 12 MAAs around the country to solicit their views on the private resettlement program. The response was largely critical.

"I have real doubts about how this is going to run", said Thai Vue, executive associate director of the LaCrosse Area Hmong Mutual Assistance Association. "Will the volags be able to administer these programs across the country? Some affiliates [in the LaCrosse area] have to cover a 150-mile radius. How will they provide case management? The refugees will be the people who suffer if there are problems." Thai Vue had another question: "Who is the private sector?" he said. "ORR says it is mainly the voluntary agencies. It is true that MAAs do not have a national structure so it does not make sense for us to do R&P [the reception and placement grants of $560 per capita provided to the volags by the State Department]. But in terms of providing support services, case management, and employment services, the MAAs are in a better position. I think that the voluntary agencies and the local MAAs will have to work together."

Nady Tan said he fears a freeze-out. "There is no role for the MAAs in the ORR plan," he told *Refugee Reports.* "There is only a subcontract role, but I don't believe the volags will do this. Privatization is monopolization."

Congress Will Have the Last Word On January 15, the three members of the Senate Judiciary Committee's subcommittee on refugees--Sens. Kennedy, Alan Simpson (R-Wyo.), and Paul Simon (D-Ill.)--sent a letter to Louis W. Sullivan, Secretary of the Department of Health and Human Services, calling the Administration's proposed FY 93 budget cut "sudden and drastic."

"We have varying views as to whom the United States should be resettling and in which number," the letter said. "However we all agree that it is not sound policy, nor fair to local communities, to fail to provide in the federal budget for the number of refugees we intend to admit." The three senators said they "strongly" supported funding "for at least 12 months of federal reimbursement to states for refugee cash and medical assistance in FY 93."

Washington sources say there is a good chance, although certainly no guarantee, that Congress will appropriate more funding for the refugee program than the $227 million requested by the Administration. The National Governors' Association, on the recommendation of several state coordinators, has asked for $620 million to restore 12 months of federal funding for the CMA and the categorical programs. InterAction is seeking a return to at least FY 92 levels, namely $410 million. Insiders say a more realistic figure is $350 million.

"I think that the best we can hope for," said Iowa's Johnson, whose state is the only one also to serve as a resettlement agency, "is that Congress will give us $350 million to continue the same basic program next year. That would give us time to look at reauthorization and to implement a new vision of resettlement."

But what if Congress gives ORR only $277 million? And what sort of planning can take place now when an answer to the money question likely will not come until late September or early October? "I think the voluntary agencies find themselves caught between a rock and a hard place," ACNS director Klein said. "If we don't go along with this proposal, refugees and communities could suffer. If we do accept, we could find ourselves way out on a limb. And in this case, even to duck a decision is to make one."

Recent Developments

HAITIAN REFUGEES FIND COLD WELCOME IN NEIGHBORING DOMINICAN REPUBLIC

[This article is by Robin Kirk, who just completed a site visit to the Dominican Republic for the U.S. Committee for Refugees.]

When Prospere Thiesme heard about the military coup that forced Haitian President Jean-Bertrand Aristide into exile, he knew he would soon have to follow.

Thiesme, 36, is a lawyer who works with the Peasant Movement of Papaye (MPP), closely tied to progressive sectors of the Catholic Church and Aristide. A wiry, energetic man, Thiesme supported his wife and four children with a small store and by teaching French.

That changed when friends told him his name was on a list being circulated by the military and members of the infamous Tonton Macoute, the paramilitary squad first set up by dictator Francios Duvalier. Unlike most political activists, who have fled Haiti across the Windward Passage to Cuba, Thiesme made an 18-hour trek across the mountains to the Dominican Republic (DR).

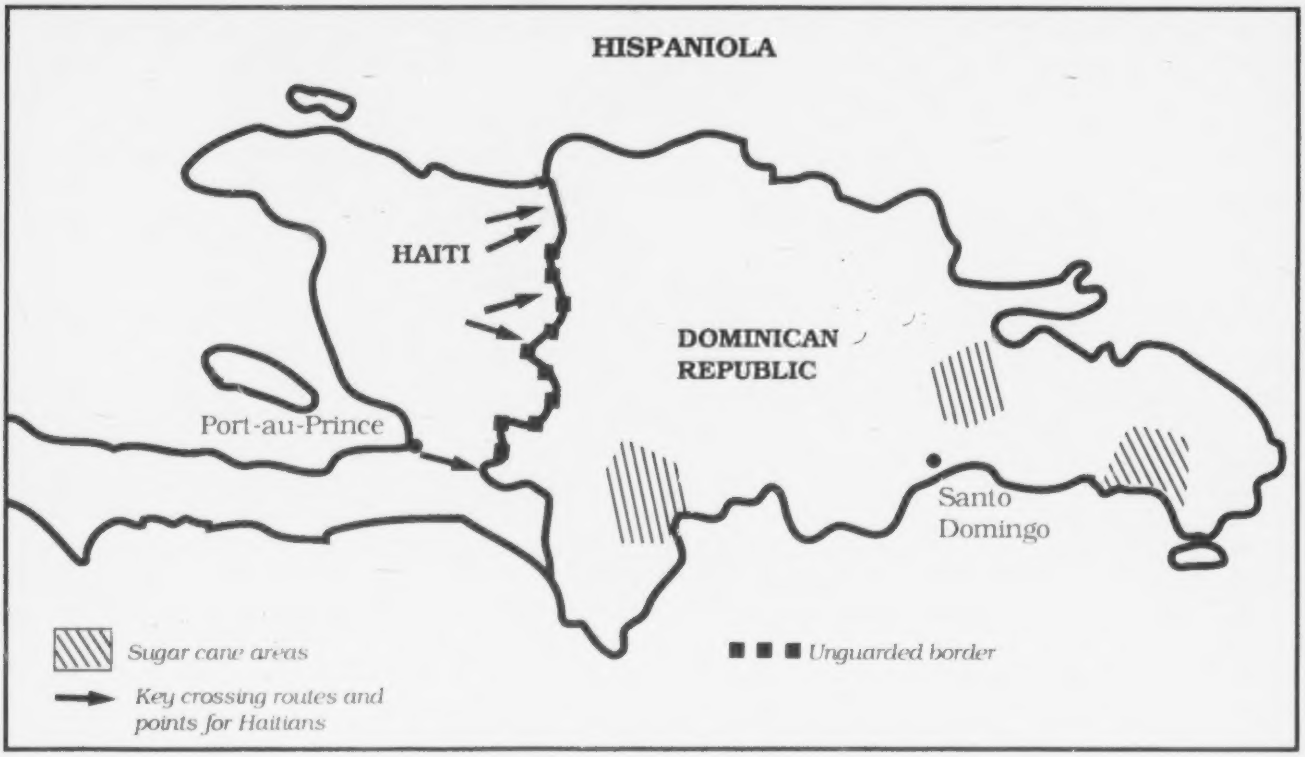
"Many people know how badly Haitians are treated here, so don't come," says Thiesme, who now lives as a refugee in a church in Santo Domingo, the capital. "I had no choice. It was either cross or be killed."

Despite long-standing tensions between the two countries, groups that work with Haitians in the DR say that hundreds of Haitians fleeing political repression have arrived here. The United Nations High Commissioner for Refugees (UNHCR) received over 150 petitions for refugee status in the first two months of 1992, of which 25 have so far been formally recognized.

Prospere Theisme. Photo Credit: USCR/R. Kirk

Most of the applicants come from the rugged, drought-stricken Central Plateau in northwest Haiti. Like many of Aristide's most passionate supporters, they represent a new political class: poor, often local lay workers or teachers, who were converted to Aristide's cause by the promise of democracy and social justice. Most fled their homes suddenly, often unable to take either clothing or food, or to tell their families of their destinations. Many have since made contact with church groups who have long worked with the Haitians who cross the border to cut cane.

Cutting Cane Thiesme, for instance, found himself in the DR with no money or contacts. When a Dominican offered to transport him for free to the interior, he accepted.



However, in exchange, he had to agree to cut cane. For decades, tens of thousands of poor Haitians have worked in the DR's huge sugar industry, the economic mainstay.

There, they face sub-human conditions that convert them into virtual slaves. Some workers are tricked into coming. Then, they find themselves imprisoned on isolated *bateyes*, rickety clumps of shacks in the cane fields without decent water, sewage, or health care. Armed guards often in league with the police prevent them from leaving.

Thiesme managed to slip away by night after two days cutting cane. "They don't allow you to leave the *batey* because there are guards and supervisors watching," he explains. "Even if they see you walking along the highway, if you are Haitian they will pick you up."

Thiesme made his way to Santo Domingo, where he found the office of Father Edwin Paraison and the Episcopal Pastorale Haitian. Currently, ten other Haitian refugees, including a topographer, a former Army sergeant, and a journalist live there.

Father Paraison, who is Haitian, has worked with cane cutters in the DR for eleven years. He says that it is impossible to calculate the number of political refugees who are mixed in with the undocumented Haitian population, estimated at 500,000.

However, Paraison points out that only last June, the Dominican government, stung by international criticisms for its treatment of cane cutters, began forcibly repatriating Haitians. About 14,000 Haitians were formally sent back, while Paraison estimates that "anti-Haitian" sentiment and fear of violence convinced an estimated 25,000 more to leave voluntarily, often giving up a lifetime's worth of belongings. "These were people who had dedicated 25 to 30 years of their lives to supporting the Dominican economy by cutting cane," he says. Many still recall their parents' stories of "El Corte," the mass murder by the Dominican Army of between 12,000 and 18,000 Haitian cane cutters in 1937.

"They turned their backs on the Dominicans, swearing never to return," Paraison points out. "Nevertheless, this year, for the first time, the Dominicans haven't had to use coercion to bring workers over. More workers than ever are

JUDGE SUSPENDS FORCED REPATRIATION OF SCREENED-IN HAITIANS

On March 27, U.S. District Court Judge Sterling Johnson, Jr. issued a temporary restraining order (TRO) that blocks the U.S. government from forcibly repatriating some 3,446 Haitians currently remaining at the U.S. naval base at Guantánamo Bay, Cuba.

The TRO is the result of a lawsuit filed by the National Coalition for Haitian Refugees, the New York-based Haitian Centers Council, and individual Haitians at Guantánamo. They are represented by the Center for Constitutional Rights in New York, the San Francisco Lawyers' Committee for Urban Affairs, and Yale Law School's Lowenstein International Human Rights Clinic.

The action comes on the heels of an ultimately unsuccessful suit in the Eleventh Circuit Court of Appeals brought by Miami's Haitian Refugee Center, *HRC v. Baker*, that challenged the forced repatriation of Haitians who were "screened out" aboard Coast Guard cutters or at Guantánamo Bay.

The present case, *Haitian Centers Council v. McNary*, filed in the Second Circuit, focuses primarily on "screened in" Haitians who have met the threshold test of a "credible fear" of return.

Lawyers for the plaintiffs argue that those who have been screened in have a constitutional right to legal counsel prior to any further determinations about their status. "Once a person is screened in," said Michael Ratner of the Center for Constitutional Rights, "he's no longer alone, out there in the ozone. He has rights, rights to some access" to counsel and to due process.

HIV Positive Cases About 200 of the "screened in" Haitians who remain at Guantánamo and who have not been paroled into the United States to pursue their asylum claims have the human immunodeficiency (HIV) virus associated with AIDS. They apparently will have full asylum determinations at Guantánamo.

Ignatius Bau of the San Francisco Lawyers' Committee told *Refugee Reports* that it is "uncertain and unclear" under what authority and for what purpose the new interviews of HIV positive Haitians are being conducted. Variously cited in INS depositions and memoranda, he said, have been the statutory authority for asylum, for overseas refugee admissions, and for humanitarian parole without it having been made clear whether refugee status, parole, or some other determination would be the end result of a positive decision. These interviews have been conducted using the higher asylum/refugee standard of a "well-founded fear of persecution," rather than the lower "credible fear of return" test used in pre-screening, but without the legal protections afforded to asylum applicants in the United States. "Whatever the purpose and authority," he said, "they have constitutional rights under U.S. jurisdiction, and before further screening, we want access to our clients."

Plaintiffs Allege Coerced "Voluntary" Departures The plaintiffs have submitted into evidence affidavits and depositions showing that 1,080 files were "lost" and had to be rescreened and that 50 Haitians who were screened in were accidentally repatriated.

"It looked like chaos, mistakes, perhaps some intent to winnow down the numbers at Guantánamo," said Ratner.

Ratner said that several hundred of the "screened in" opted for voluntary departure. "On its face, it sounds a little odd," he commented. "Why would they risk their lives, leaving on a small boat, get screened in, and then voluntarily return?"

Bau said that the affidavits reveal "coercive tactics" in the pre-screening interviews and pressure to move through them quickly.

Others who have been to Guantánamo have reported to *Refugee Reports* the active involvement of the navy's "Psy-Ops" unit in producing a newsletter for the Haitians there and broadcasting over the public address system the message promoting voluntary departure.

Judge Johnson scheduled a hearing on the underlying legal issues for April 1, at which time he could impose a preliminary injunction on the government, which likely would be appealed to the Second Circuit.

coming of their own free will. Among them are both political and economic refugees, who are now suffering from the embargo."

Stand-off with New Arrivals The day after the September 29 coup, the DR government suspended forced repatriations. Since then, however, the DR has shown a cautious if not openly hostile attitude toward political refugees.

Many Dominicans fear that accepting such refugees would result in an unmanageable flood across an extremely porous border. In the north, the border is the narrow, ankle-deep Capotillo River, impossible to seal.

Although more prosperous than Haiti, the DR economy is in recession. Recent economic austerity measures have dramatically reduced the buying power of the middle class and cut into social services.

When 23 Haitians from Cerca Carvajal took refuge in the Dajabón Catholic Church in October, the Dominican government reacted by placing police and military guards at the doors and preventing the refugees from leaving. After eight months, 15 decided to return to Haiti, where they are reported to be in hiding.

Even though the UNHCR took custody of the remaining 8 refugees and moved them to the capital, the Haitians remained under military and police guard until March 13.

The UNHCR office in Santo Domingo has so far presented the Dominican government with 11 refugees, who in March received temporary residency status for one year. However, although the UNHCR has recognized other Haitians as refugees, it has yet to present the cases formally to the Dominican government.

"The situation is extremely delicate with the United States repatriating Haitians from Guantánamo," says Dr. José Mieses, director of the social service agency handling the UNHCR claims. "The Dominican authorities have told me that as long as the U.S. is repatriating, the DR has no reason to accept large numbers of refugees. We want to go slowly, so as not to risk a rejection."

Nevertheless, former Haitian rulers and members of the Tonton Macoutes have found welcome in the DR. For instance, General Williams Régala, General Henri Namphy, and former Port-au-Prince mayor Frank Romain now live in the DR and commute freely to Haiti. Some live in La Romana, a luxurious resort town on the DR's southeastern coast.

In stark contrast, pro-Aristide Haitians lack even chairs to sit on in their temporary shelter, and get soap and toothpaste only by entreating visitors. Their pants and shoes are the same ones they walked in to get to the DR.

Only a few have managed to tell their families where they are. No one moves about freely on the streets for fear of being picked up by police--or, worse, being spotted by the Tonton Macoutes who seem to pass freely back and forth between the two countries.

"I don't believe there is even one Haitian who would choose to come here as a political refugee," says Bernard Adolphe, a journalist for the government newspaper *L'Union*. "But when there is political pressure, the DR is right there, close."

NEW REFUGEE INFLUX INTO BANGLADESH

*(*Refugee Reports *staff writer Hiram A. Ruiz traveled to Bangladesh in March 1992, to document the current situation of Burmese refugees.)*

The Rohingya Burmese refugees in Bangladesh are rapidly becoming one of the world's larger and more vulnerable refugee populations.

There are now an estimated 182,000 Rohingya refugees (Muslims from Burma's Arakan state who are closely related to Bangladeshis) in the already overcrowded Cox's Bazar district of Bangladesh--and the number keeps climbing. More than 80,000 other Burmese refugees of various backgrounds and ethnicities have also fled to Thailand, China, and India.

The Rohingyas say that since late 1990 there has been an increase in abuses against them in Burma (now Myanmar). The most commonly reported abuses include men being taken away from their villages by force and being made to work for the Burmese army under extremely harsh conditions, most often building roads, and

Throughout the month of March, an estimated 2,000 to 5,000 Burmese Rohingya refugees arrived in Bangladesh each day. The constant influx of new refugees severely taxes the ability of those involved in the relief effort to help. *USCR/H. Ruiz*

women being raped by soldiers both while the men are in the village and while they are away in forced labor camps.

One refugee, Anumiha, said that the recent abuses are worse than any he has experienced in his sixty years. He said, "They took our cattle, raped our women, stole our property, and then they told us, 'Go away from our country. This is our country, you have no right to be here.'" One woman refugee said the army burned down her house after looting all her property.

Almost every male refugee whom *Refugee Reports* interviewed said that in recent months he had been taken for forced labor. Most were kept for periods of one to two months, provided little or no food, and beaten if they refused to work or couldn't work due to exhaustion. Reportedly, some of the men taken for forced labor never returned. One refugee said he saw Burmese soldiers shoot several of the men who were abducted with him.

Virtually all of the refugees speak of Burmese soldiers raping many women in their villages. Health workers and others who have interviewed Rohingya refugee women at length confirm that rape has been widespread.

The refugees who fled Burma between November 1991 and late January 1992, arrived in Bangladesh in poor physical condition, often with no more than the clothes on their backs. Those who have arrived since February, a majority of the more than 182,000 refugees, have been able to bring many of their personal belongings and are generally in better physical health.

Initially, the Bangladeshi government hoped to work out an agreement quietly with Burma that would lead to a quick repatriation of the refugees (as it had done in 1978, when Bangladesh persuaded more than 200,000 Rohingyas who fled from Burma to return home after the Burmese authorities promised to cease the abuses that caused the refugees to flee--a promise that the Burmese did not keep). This time, however, Burma rebuffed Bangladesh's overtures.

In mid-February, faced with a growing refugee population and rapidly deteriorating conditions, increased media attention to the crisis, and clear signals from Burma that an early repatriation was highly unlikely, Bangladesh invited in the UN High Commissioner for Refugees (UNHCR). A UNHCR team arrived in Bangladesh almost immediately. That, and the Bangladesh government's appointment of a Relief and Repatriation Commissioner (RRC), led to a considerable improvement in the relief effort.

Although the relief effort is now meeting the refugees' basic survival needs, problems remain. They include insufficient land for new refugee camps, poor sanitation, lack of shelter, and malnutrition. All of these problems will be exacerbated when the rainy season begins, with light rains starting in April, and heavier rains in June.

If the refugee influx were to stop now, there might be time to remedy some of the existing problems in the camps by relocating latrines and building more solid shelters before the rains. But that seems unlikely. It is far more likely that the number of refugees fleeing Burma will increase substantially, further taxing the resources of those involved in the relief effort. Additional resources, both material and human, will be necessary.

Updates

- Some 40,000 Kurds have been newly displaced in northern Iraq due to intense shelling by Iraqi forces, according to press reports. Shelling just outside the periphery of the safe haven zone intensified around March 25, according to a UN High Commissioner for Refugees official, who said that up to 300 heavy artillery shells a day were hitting the area. One town, Aski Kalak, north of the 36th parallel, but just outside the security zone, has been abandoned due to the attacks.

At an April 1 House hearing, Ambassador Thomas R. Pickering, U.S. Ambassador to the UN, said that an internal blockade imposed by Baghdad on Kurdish-controlled northern Iraq has completely cut off medical supplies to the governates of Dohuk, Sulimaniyah, and Erbil. "In the north, the flow of rations is now just half the level provided to citizens in the rest of the country," he said.

- On March 31, the House of Representatives voted 275 to 131 to approve a $14.2 million foreign aid appropriations bill for FY 92, which includes $630 million for the State Department for Migration and Refugee Assistance (MRA) and another $50 million for Emergency Refugee and Migration Assistance (ERMA). The following day, the Senate approved the measure and sent the bill to President Bush for signature.

Refugee admissions and assistance programs, along with the rest of the foreign aid accounts, had been operating since last October 1 on a six-month Continuing Resolution, which had frozen spending at FY 91 levels. MRA funding in FY 91, excluding a special supplemental for humanitarian relief in the Persian Gulf, had been $485 million, so the FY 92 level represents a significant increase.

Voluntary agency officials in Washington credited Rep. David R. Obey (D-Wis.) with leading the effort to see the FY 92 measure through. Obey is chairman of the House Appropriations Committee, Subcommittee on Foreign Operations.

- Effective March 28, Temporary Protected Status (TPS) was extended for nationals of Lebanon and Liberia through March 28, 1993. Aliens having no nationality who last habitually resided in Lebanon or Liberia, who have resided in the United States since March 27, 1991, may apply for TPS at any time during a special registration period ending September 28, 1992. On the other hand, citizens of Liberia and Lebanon were required to re-register by March 27 to extend their TPS designation. An Immigration and Naturalization Service (INS) cable to district directors directed them to be "generous and give the benefit of the doubt" to late registrants, and to deny the benefit only to those who "willfully" failed to re-register.

Exclusive USCR Interview with Cambodian Prime Minister Hun Sen

March 28, 1992

(During the recent visit of Cambodian Prime Minister Hun Sen to the United States, Raci Say and Court Robinson of the U.S. Committee for Refugees were offered an exclusive interview with him, two days before the first group of 527 Cambodian refugees returned home under UN auspices.)

USCR: The U.S. Committee for Refugees is an advocacy group that monitors the plight of refugees worldwide. We would like to hear your views on the plan for repatriation of 370,000 people. The UN plan calls for the return of 10,000 people each week starting in March. Is this a realistic plan? If not, what are the obstacles, and what can be done to remove those obstacles so people can get back home safely in time for the elections?

Prime Minister Hun Sen: The program of repatriation of Cambodian refugees is part of the UN peace plan in Cambodia. Right now, I think it is just over 30 hours away that the first repatriation of Cambodian refugees will start. Tomorrow, Prince Sihanouk will go to Battambang and then to Sisophon to welcome the first contingent of returnees.

For the last few months, I have raised a number of issues with the UN High Commissioner for Refugees (UNHCR). The preparation of the reception centers inside Cambodia is in place. It is planned that 10,000 returnees would be received in each week. We have six reception centers in four provinces.

The problem is not the transport of these refugees from camps inside Thailand to the reception centers inside Cambodia. The main problem is the transport of these returnees from reception centers to their home villages. We have some worries in this regard. First, our local authorities have not yet received precise information on how many families will be resettled in what particular village.

We are also concerned about the condition of access roads for these returnees to go home, the lack of material for building shelters, and the need to find land to be used as farms and then to be cleared of landmines. We have to increase the building of classrooms for the children who are returning so they have the opportunity to go to school. These are all the concerns of our local authorities.

Another problem is the inadequate budget for this huge operation. It is estimated that the operations will need about $116 million U.S. dollars. So far only about $40 million has been made available.

Right now we don't have the construction materials for refugees to build their own shelter, and repatriation will happen during the rainy season. In April, normally rains start to fall in the provinces of Battambang and Siem Reap. So how can you help them, will you let them stay out in the rain? So much farmland has not yet been cleared of landmines. So we are worried that the refugees might have their lives endangered. If we cannot provide adequate assistance to the first contingent of the returnees, then the remaining ones might not want to return. They may want to remain in Thailand or request to be resettled in a third country.

So far, we do not have any rice seed or farming tools available for them to start their lives. If we cannot provide the [level of] assistance to the returnees that was provided to the refugees in the camps in Thailand, then wouldn't they become Cambodian refugees inside Cambodia?

Also, we have another problem in providing schooling to the children. Right now we have 1.8 million students, which is twice the number before the war. Our classrooms are supposed to have only 40 to 50 children, but now we admit more than 100 children in each classroom. More than fifty percent of all the returnees are school-age children. Therefore if the children of the returnees cannot go to school while the children of the local population can, this will be regarded as discrimination. I have raised this issue with UNHCR, UNICEF, and UNESCO, but so far no money has made available.

I wish to draw your attention to the issue of the refugees under Khmer Rouge (KR) control. A few month ago, the KR forced refugees to move to their zone of control. Yesterday, two civilian administrators were arrested and two refugees were murdered. That was to warn refugees not to go along with the repatriation plan of the UN but rather to go with the KR program. For the protection of the returnees, we have to speak up on their behalf.

We also should not ignore the tens of thousands of internally displaced persons in Cambodia. These internally displaced persons are a result of the truce violations of the other factions, particularly the KR. Two months ago, the KR attacked a village in Kompong Thom province, which produced more than 20,000 displaced persons in that province. In the last few days, we received more than 1,000 new displaced persons. Assistance must also be provided to the internally displaced people.

As of February 28, a total of 7,292 Lebanese and 4,838 Liberians were registered for TPS. Also, 246 Somalis are designated for temporary protection. Only 343 Kuwaitis had registered for TPS, which expired on March 28.

- A total of 187,128 Salvadorans registered for TPS prior to the end of their registration period on December 31. The INS was directed by the Immigration Act of 1990 to issue orders to show cause (OSCs) upon the final re-registration for TPS designees. However, under the terms of the settlement of the *American Baptist Churches* (ABC) suit, Salvadorans have an opportunity to file new asylum claims, which, in effect, prevents them from being placed in deportation proceedings until their asylum applications have been adjudicated. In fact, a January 31 INS memorandum instructs officers to tell Salvadorans who are applying for asylum under the terms of the ABC settlement that their deportation hearing dates have been cancelled and will be rescheduled.

According to the INS, cases will be reviewed after asylum adjudications take place to determine whether or not deportation procedings are appropriate.

TPS for Salvadorans is scheduled to end on June 30.

- On March 2, the U.S. Supreme Court granted a petition from the U.S. Solicitor General to hear *Barr v. Flores*, a case involving the detention and release of juveniles in immigration proceedings (see *Refugee Reports*, Vol. XII, No. 9).

Job Board

Washington Representative The American Council for Nationalities Service (ACNS) seeks applicants for its Washington representative position, based in the Washington, D.C. office of the U.S. Committee for Refugees, a program of ACNS. Will participate in the development of agency policy on legislation and regulatory issues affecting immigrants and refugees in conjunction with the executive staff of ACNS. Will have a liaison function with congressional offices and federal regulatory agencies, suggesting modifications in existing law as policy, and commenting as appropriate on governmental initiatives. Will provide information on developments in immigration and refugee law to ACNS's network of 40 member organizations. Will develop position papers.

Requirements: Law degree not required, although experience in legal analysis would be helpful. Experience in immigration service provision, refugee resettlement, refugee protection, or legislative work is desirable. Must have strong analytical and writing skills. Must be a self-starter.
Contact: Christine Gaffney, associate director of ACNS, 95 Madison Avenue, New York, NY 10016.

Staff Director The California Coalition on Self-Sufficiency is seeking applicants for a position as staff director, to be based in Sacramento beginning mid-June 1992. The Indochina Resource Action Center (IRAC) and its partners in California (CSEARR, IMAA, UVCC, and VNCOC) comprise the five founding members of the Coalition. Will be responsible for research, writing, and speaking before the public, press, and policy makers about issues affecting the California Mutual Assistance Associations (MAAs) and their refugee clients; track refugee-related legislation through the California legislature; monitor the impact of the state's budgetary process on refugees.

Requirements: B.S. or B.A. in Public Administration, Social Sciences or related fields; bilingual (Vietnamese-English); superior written and communication skills; computer literate.
Contact: CA-SS Selection Committee, c/o IRAC, 1628 Sixteenth Street N.W., Washington, D.C., 20009. No phone inquiries please. Closing date May 8; interviews to be held in California May 22.

Resources

ALEINIKOFF & MARTIN UPDATED

Immigration: Process and Policy, by Thomas Aleinikoff and David A. Martin, the clearest and most comprehensive textbook on immigration law, has gone into a second edition. The new edition extensively updates the first edition, published in 1984 (see *Refugee Reports*, Vol. VI, No. 11), particularly by including significant new areas of immigration law covered, most recently, by the Immigration Act of 1990. On the refugee and asylum side, attention is paid to the Immigration and Naturalization Service's asylum regulations of July 1990, along with a thorough discussion of the seminal cases. The actual texts of important court opinions are reprinted. Following such cases, or reprints of other interesting commentaries, the authors generally ask a series of searching questions for law students to ponder on hypothetical situations for which they are called upon to apply their knowledge.

Aleinikoff and Martin include historical as well as philosophical and sociological materials to flesh out the issues, so immigration and refugee matters are not regarded as strictly and exclusively a legal affair. The materials are thoughtfully selected and well-organized. Among some of the more interesting readings selected are articles previously published by the authors themselves. Their own essays make clear that while both are imbued with the law, they nevertheless are both anxious to embrace perspectives and approaches that are not bounded by it. Martin, for example, sets the tone for the chapter on political asylum by rejecting a clean distinction between refugees and economic migrants, saying that "asylum adjudication...is at best a crude and incomplete way to respond to the complex realities that the world presents." He likens the cases presented by asylum seekers as a "spectrum of situations, with only subtle shadings distinguishing the risk levels they face," but yet requiring the drawing of a line at some point on that spectrum. "Our legal structure, for ultimately sound reasons," he says, "demands a simple yes or no answer to the asylum claim."

Later in the chapter, Aleinikoff also challenges the legal limits, asking why the definition of "persecution" in the refugee definition is limited to race, religion, nationality, membership in a particular social group, or political opinion. While noting the "unjustifiable, intolerable aspect of the infliction of harm" those five grounds signal, Aleinikoff observes, "it is not all clear that persecution ought to be so limited--or, more importantly, that an applicant must be able to establish conclusively that one of the five grounds is at work in order to establish persecution." He suggests a "free-standing" interpretation of "persecution" that would require judgments about the degree and justifications for inflicting harm, but not one necessarily invoking the five grounds enumerated in the Refugee Act.

Immigration: Process and Policy--better known to its readers simply as "Aleinikoff and Martin"--is not only a valuable reference work, it also makes enjoyable reading. Accompanying the second edition is a pure reference work, *Immigration and Nationality Laws of the United States: Selected Statutes, Regulations and Forms*, an extended appendix of sorts to the principal volume, which includes the complete text of the Immigration and Nationality Act, as amended by the Immigration Act of 1990, the texts of the 1951 UN Refugee Convention and its 1967 Protocol, as well as selected immigration forms. It is due to be revised this summer, to incorporate recent technical corrections to the Immigration Act.

The cost of the hardbound 1,056-page *Immigration: Process and Policy* is $45.95. The 477-page, paperbound companion volume, *Immigration and Nationality Laws of the United States*, is available for $15.95. Postage, handling, and taxes vary according to the specific order. Both volumes are available from West Publishing Company, P.O. Box 64526, St. Paul, MN 55164-0526. 1-800-328-9352.

NOTICE

TO REFUGEE REPORTS SUBSCRIBERS

As part of your subscription package, you should soon receive a copy of the 1992 World Refugee Survey.

For additional copies at $10.00 each contact: Frehiwot Kiflemariam, U.S. Committee for Refugees, 1025 Vermont Ave., N.W., Washington, D.C. 20005. Tel: (202) 347-3507; FAX: (202) 347-3418.

U.S. REFUGEE AND ASYLUM PROGRAMS AND POLICIES; A 1991 CHRONOLOGY

The following is a chronology of U.S. program, policy, and legislative decisions affecting refugees and asylum seekers in 1991. The listing is taken from the pages of Refugee Reports, Volume XII.

January 2 President Bush directs that more than $12 million be made available from the Emergency Refugee Migration and Assistance (ERMA) fund. Of that total, $6 million was authorized for Liberian refugees; $2.5 million for Sudanese refugees; $3 million for refugee needs created by the Persian Gulf crisis; and $600,000 for refugees from Chad, Rwanda, and Burundi.

January 24 The Bush Administration proposes removing HIV infection from the list of "dangerous, contagious diseases" for which immigrants and refugees can be excluded from entering the United States.

March 11 $5 million is authorized from the ERMA fund for UNRWA's work with Palestinians in the Occupied Territories. Another $1 million is authorized for the ICRC's work in Sri Lanka.

March 27 Attorney General Dick Thornburgh designated nationals of Kuwait, Liberia, and Lebanon for Temporary Protected Status (TPS), protecting them from deportation until March 26, 1992, and authorizing them to work during that time.

April 2 Ribbons are cut to inaugurate the new Immigration and Naturalization Service's (INS) asylum officer corps program.

April 5 President Bush authorizes a $10 million drawdown from the ERMA fund for the refugee crisis in the Persian Gulf.

April 12 This is established as the cut-off date for registration of Afghan refugees for U.S. resettlement, except for compelling cases involving immediate threats to life (Priority One).

April 15 President Bush announces that U.S. troops will go into northern Iraq to establish a protected enclave for Iraqi refugees and displaced persons.

April 17 President Bush authorizes $4 million from the ERMA fund for South African repatriation. Another $10 million is authorized for Ethiopia and Somalia, and $1.25 million for refugees in Malawi.

April 22 $10 million is authorized from the ERMA fund for the Persian Gulf crisis.

May 22 Congress approves a $556 million emergency assistance bill to provide relief for Iraqi refugees displaced as a result of the Gulf War.

May 28 This becomes the cut-off date for acceptance of applications for U.S. resettlement for Ethiopian refugees.

May 31 The Bush Administration reverses the January 24 proposal to remove the ban on HIV infected immigrants and refugees, asking for further public comment on the issue.

June 3 The UN announces a shortfall of $340.3 million to cover the costs of the humanitarian emergency in the Persian Gulf.

June 6 The House Appropriations Subcommittee approves cutting the refugee cash and medical assistance (RCMA) portion of the $410.7 million resettlement budget by half for FY 92 (from $234 to $117 million), and recommends terminating RCMA for FY 92 by March 31, 1992.

June 11 A Joint Voluntary Agency representative opens its doors in Sierra Leone to begin processing Liberian refugees for U.S. resettlement.

June 13 Dire emergency FY 91 supplemental appropriation for refugees and displaced persons in and around Iraq signed into law.

June 21 President Bush orders a $2 million ERMA fund drawdown for refugees in the Horn of Africa.

June 26 The House of Representatives passes an appropriations bill that cuts refugee cash and medical assistance in half for FY 92.

July 2 President Bush signs into law a last-minute measure to extend by four months the registration period for Salvadorans seeking TPS.

July 7 A boatload of 161 Haitians rescues two Cubans floating in an inner tube. The Coast Guard interdicts the boat, brings the two Cubans to the United States, and returns all but nine of the Haitians to Haiti.

July 8 President Bush authorizes a $7 million ERMA drawdown for UNHCR's work in Western Sahara.

July 17 The INS issues an interim regulation, effective immediately, requiring Salvadorans seeking to waive TPS registration fees to submit affidavits providing detailed financial and biographical information.

July 29 The U.S. Interests Section in Havana, Cuba, suspends processing new visa applications when the backlog reaches 28,000. During the first seven months of FY 91, 32,000 nonimmigrant visas were granted in Havana. About 40 percent of those arriving in Miami on chartered airplanes in 1990 did not return to Cuba.

July 31 The Senate approves an appropriations bill that increases by $72.4 million the INS budget for FY 92.

August 6 As of this date, 422,000 applications, representing 627,000 persons, had been received from persons in Moscow seeking admission to the United States as refugees. As of June 1, 9,960 interviews had been conducted at the U.S. Embassy in Moscow, representing 40,358 applicants.

August 9 The Ninth Circuit Court of Appeals rules in *Flores v. Meese* that it is unconstitutional for the INS not to release a juvenile from detention if a responsible adult is willing to assume responsibility for the child.

August 29 Bush authorizes a $22 million ERMA drawdown for urgent and unforeseen needs in the Horn of Africa, $7.3 million for UNRWA's work with Palestinian refugees in the Occupied Territories and Lebanon; and $6 million to the United Israel Appeal to help resettle Ethiopian refugees in Israel.

September 16 The Attorney General designates Somalis for TPS.

October 1 The Office of Refugee Resettlement, Health and Human Services, announces that refugee cash and medical assistance for newly arriving refugees will be reduced from a maximum of 12 to 8 months.

October 4 The Organization of American States (OAS) appeals to the United States to suspend its policy of interdicting Haitian boat people in the aftermath of the overthrow of President Jean Bertrand Aristide.

October 9 President Bush establishes an FY 92 worldwide admissions ceiling of 142,000, a 29,000 increase over FY 91 admissions, with no increase in federal funding for the refugee resettlement program. The funded admissions include 6,000 for Africa, 52,000 for East Asia, 3,000 for Eastern Europe, 3,000 for the Western Hemisphere, 6,000 for the Near East and South Asia, and 61,000 for the Soviet Union.

October 23 A peace accord is signed by the four Cambodian political factions which, among other things, binds them to abide by UN plans for the safe and voluntary return of Cambodian refugees.

October 28 President Bush signs into law a five-month continuing resolution that holds FY 92 spending for foreign aid programs at FY 91 levels with no exceptions made for humanitarian programs such as refugee assistance abroad and domestic reception and placement of resettled refugees.

October 29 A congressional conference committee restores domestic resettlement funding in the FY 92 appropriation to the FY 91 level. Funding for refugee cash and medical assistance had been cut by half in the House version of the bill. Because release of the $117 million of RCMA funds was being held until the last day of the fiscal year, however, state and local governments expressed doubt whether the restored money would actually be available for cash and medical assistance.

October 29 Britain and Vietnam reach an agreement on the forced return of all Vietnamese boat people in Hong Kong who have been rejected for refugee status. The U.S. government reiterates its opposition to the "forced repatriation to Vietnam of asylum seekers determined not to be refugees."

October 30 President Bush declares this "Refugee Day."

November 11 As thousands of Haitian boat people are interdicted by the U.S. Coast Guard and held aboard the cutters, the UNHCR calls on the United States to "allow all of the individuals now on board vessels to be disembarked in the United States and admitted for determination of their refugee status."

November 18 and 19 The U.S. Coast Guard returns 538 Haitian boat people to Haiti. Further forced repatriations are stopped by a restraining order issued by a federal judge in Florida.

November 21 The State Department announces that applications for refugee resettlement will no longer be accepted from Ethiopians.

November 22 Rep. Romano L. Mazzoli introduces a bill to provide TPS to Haitians, preventing the forced return of Haitians until a democratically elected government is securely in power in Haiti. Similar bills are later introduced in the Senate.

December 17 President Bush authorizes the release of $7 million from the ERMA fund for the victims of civil conflict in Yugoslavia.

December 31 The Thai government and the UNHCR close a nearly ten-year-old anti-piracy agreement. No pirate attacks on Vietnamese boat people had been reported since July 1990.

Office of Refugee Resettlement Funding

	FY 1991	FY 1992[a]	FY 1993[b] (Proposed)
Cash & Medical Assistance	$234.2	$234.2	$50.0
Social Services	$ 83.0	$ 83.0	--
Matching Grant	$ 39.0	$ 39.0	--
Targeted Assistance	$ 48.8	$ 48.8	--
Preventive Health	$ 5.6	$ 5.6	--
Total (in millions)	**$410.6**	**$410.6**	**$227.0**[c]

[a] *$117.6 million not available until last day of FY 1992.*

[b] *Reserved for unaccompanied refugee minors and especially needy refugee families.*

[c] *$117.6 million not available until last day of FY 1993.*

Source: Department of Health and Human Services/Office of Refugee Resettlement.

REFUGEE REPORTS is published monthly for $40.00 per year for one subscription, $25.00 each for two or more subscriptions to the same addressee, or $25.00 each for ten or more subscriptions requested at the same time, mailed to separate addresses; overseas postage is an additional $24.00 for second class or an additional $75.00 for airmail; by ACNS, 95 Madison Avenue, Third Floor, New York, NY 10016. Second Class Postage paid at New York and additional mailing offices. POSTMASTER: send address changes to *Refugee Reports*, Sunbelt Fulfillment Services, P.O. Box 41094, Nashville, TN 37204.

Editorial comments and inquiries should be sent to: *Refugee Reports*, 1025 Vermont Avenue NW, Suite 920, Washington, DC 20005. All communications regarding subscriptions should be sent to: *Refugee Reports* Subscriptions, Sunbelt Fulfillment Services, P.O. Box 41536, Nashville, TN 37204. (615) 377-3322.

Basic subscription rate for 12 issues per year: $40.00; Multiple-copy rate: $25.00; Single copies of back issues: $4.00
Co-Editors: Bill Frelick and Virginia Hamilton; Staff Writers: Court Robinson and Hiram A. Ruiz;
Distribution Manager: Carolyn Moore; Production Coordinator: Koula Papanicolas.
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Refugee Reports

A News Service of the U.S. Committee for Refugees, a Project of the American Council for Nationalities Service
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Refugee Reports

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Volume XIII, Number 4 **April 30, 1992**

INJUNCTION LIFTED, HAITIAN FORCED REPATRIATIONS RESUME

On April 22, the U.S. Supreme Court lifted the injunction issued by a federal judge in New York that had prohibited the government from repatriating any "screened in" Haitians at the U.S. naval base at Guantánamo Bay, Cuba, who had been denied the opportunity to consult with legal counsel.

The Court split 5-to-4 on the order, with Justices Blackmun and Stevens dissenting. Justices O'Connor and Souter joined that part of the dissent relating "to refugees who are and who remain 'screened in'," but they concurred with lifting the injunction for Haitians who have been screened out. The case, *Haitian Centers Council v. McNary*, now returns to the U.S. Court of Appeals for the Second Circuit, where a ruling on the merits is due in May.

On the day after the Supreme Court ruling, lawyers for the plaintiffs went back to the district judge who issued the original injunction and filed for a new temporary restraining order (TRO) based, in part, on alleged violations of the Administrative Procedures Act. The effort to find another avenue for a restraining order was reminiscent of an earlier challenge to the interdiction and screening of Haitians, *Haitian Refugee Center v. Baker*, (see *Refugee Reports*, Vol. XII, No. 12).

This time, however, Judge Sterling Johnson, Jr. denied the TRO request.

Repatriations Resume Shortly after the injunction was lifted, the Immigration and Naturalization Service (INS) resumed re-interviewing about 300 HIV-positive Haitians at Guantánamo. On April 24, the authorities began making repeated announcements over the loudspeaker at the naval base that "screened-in" Haitians had 24 hours to submit to second interviews.

In response, a group of Haitians organized as the Association of Haitian Political Refugees (AHPR) joined together to say they would not submit to a second interview without their lawyers or being brought to Miami.

That same day, according to Father Jacques Fabre, a missionary assigned to Guántanamo, 27 Haitians who

IN THIS ISSUE:

The Supreme Court lifted an injunction that had stopped forced repatriations of unrepresented Haitians from the U.S. naval base at Guantánamo Bay, and remanded the case to the Second Circuit. The government has resumed forcibly returning Haitians who had passed their first pre-screening "credible fear of return" interviews. Bill Frelick reports 1

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signed waivers were repatriated. Fr. Fabre said that another 30 were repatriated the next day, April 25. On Sunday, April 26, Fr. Fabre tried to intervene to stop the beating of a Haitian man by U.S. Military Police (MPs) in riot gear. "I shouted at the MPs that he was surrendering and to stop beating him," Fr. Fabre testified in a sworn declaration. "The MPs wouldn't stop, and I threw my body between the Americans and the Haitian. The MPs pulled me away, wrenching my arm. They threw the Haitian to the ground, cracking open his skull, and continued to beat him. There was blood everywhere."

Lawyers for the plaintiffs told *Refugee Reports* that 89 of the AHPR members who had refused to be interviewed a second time without legal counsel were forcibly repatriated on April 29. "The people who were taken back were very political," said Tory Clawson, a member of the Haiti litigation team, and Yale law student. "Some were named plaintiffs who were taken back because they took a stand on the right to counsel. These were some of the most politically active refugees in Haiti and at Guantánamo."

7,000--One Third--Screened in As of April 27, 23,129 Haitians had been interdicted by the Coast Guard since the September 30 coup in Haiti, according to the State Department (using figures provided by the Department of Defense, the INS, and the Coast Guard). Of that number, 5,444 had been screened in and brought to the United States; 1,439 had been screened in, but were still at Guantánamo, including 251 persons who were found to be HIV positive. An additional 123 of those screened in remain in third countries. This brings the total screened in to 7,006, or 36 percent.

Another 11,299 were screened out and forcibly repatriated; 704 repatriated voluntarily; 494 unaccompanied minors who were screened-out remained at Guantánamo. As of April 27, five Haitians had been medically evacuated to the United States, and 53 were en route to Port-au-Prince as these statistics were being compiled. A total of 3,568 had not yet been screened as of April 27.

Another 396 Haitians were picked up on April 29, according to the National Coalition for Haitian Refugees.

Interdicted Aliens Have No Due Process Rights, Government Argues Although the Supreme Court majority gave no indication of its reasoning, the government cited two principal reasons for its emergency application for a stay of the injunction. First, Solicitor General Kenneth W. Starr argued, the TRO and preliminary injunction had "fueled a nearly twenty-fold increase in the number of Haitian migrants attempting to enter the United States illegally." He said that more than 4,000 Haitians had been interdicted in the past three weeks, and over 1,600 in the last five days. Second, he said, "there is no legal foundation whatsoever for the district court's exercise of power over the Executive Branch's interdiction program in this case."

Starr maintained that the district court "utterly disregarded the preclusive judgment in *Haitian Refugee Center v. Baker*," which, the government argued, involved the same respondent class as that earlier action.

The crux of the government's argument on the merits of the case was Starr's assertion that "aliens interdicted outside the United States have no constitutional right to due process." Starr cited several legal precedents, including *Landon v. Plasencia*, to buttress the point that "an alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative."

Policy Changes after *HRC v. Baker*, Plaintiffs Argue In contrast, the plaintiffs' lawyers argued that the government's "pervasive lawlessness continues with each passing day."

After the conclusion of *HRC v. Baker*, the plaintiffs charged that the government resumed summary screening aboard Coast Guard cutters, adopted an ad hoc policy of re-screening asylum seekers on Guantánamo who had already been screened in, and began conducting final asylum proceedings on Guantánamo for some screened-in Haitians.

"The detainees are denied any access to counsel," argued the plaintiffs. "They are unable to gather documents or witness affidavits to support their claims, to communicate with retained counsel or family members, to file subsequent

HAITIAN MIGRANTS
MONTHLY INTERDICTIONS BY U.S. COAST GUARD
1981-1992 (through April 27)

	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	TOTAL	AVERAGE 1982-1990
JANUARY	-	129	0	25	104	258	192	503	438	54	309	6,653	8,665	189
FEBRUARY	-	0	5	318	34	453	9	0	141	90	0	1,223	2,273	117
MARCH	-	21	17	84	37	158	252	741	1,535	0	0	1,158	4,003	316
APRIL	-	0	145	75	750	550	101	329	687	113	758	5,718*	9,226	306
MAY	-	13	41	134	197	200	206	540	0	1	70	--	1,402	148
JUNE	-	0	158	191	25	92	159	400	135	99	127	--	1,386	140
JULY	-	8	90	43	0	133	604	402	150	206	196	--	1,832	182
AUGUST	-	0	8	58	288	1,248	506	173	70	0	43	--	2,394	261
SEPTEMBER	-	0	25	380	652	6	547	209	429	156	157	--	2,561	267
OCTOBER	169	0	140	141	44	8	368	452	115	191	68	--	1,696	162
NOVEMBER	18	0	55	953	32	24	429	431	0	0	6,013	--	7,955	214
DECEMBER	0	22	78	540	248	258	168	434	37	214	2,345	--	4,344	222
ANN. TOTAL	187	193	762	2,942	2,411	3,388	3,541	4,614	3,737	1,124	10,086	14,752	47,737	2,524

**Includes 234 picked up by U.S. Navy in Guantánamo Bay 4/23/92.*
Source: Bureau for Refugee Programs, Department of State.

evidence in support of their asylum claims, or to appeal the decision to an immigration judge. All of the above rights are unambiguously protected under the Immigration and Nationality Act...and by agency regulations," they maintained.

The plaintiffs charged that the percentage of Haitians found to have credible persecution claims dropped drastically following the denial of certiorari by the Supreme Court in *HRC v. Baker*. "Where previously 80 percent of those Haitians interviewed were 'screened in,' thus qualifying for further asylum proceedings, recently the number has dropped to about 30 percent."

The lawyers for the plaintiffs disputed the government's argument that the class bringing the suit was the same in both the *HRC v. Baker* litigation and *HCC v. McNary* and therefore should not be heard since *HRC v. Baker* had already been decided. Among other points, the lawyers argued that the claims of those screened-in Haitians who were now facing final adjudications at Guantánamo did not exist during *HRC v. Baker*. "Their claims came into existence only after the *Baker* defendants misrepresented to the Supreme Court that all 'screened-in' Haitians would be brought to the U.S. for final adjudication, and then less than a week later issued a memorandum which initiated a new policy of conducting final adjudications at Guantánamo without providing plaintiffs the required procedural safeguards."

GAO Reports to Congress that INS Mistakenly Repatriated Haitians On the Congressional side, although legislation per se was not moving on the Haitian interdiction and screening issues, there was activity in the form of a House hearing based, in part, on a report by the U.S. General Accounting Office (GAO).

The GAO report, *U.S. Processing of Haitian Asylum Seekers* (GAO/T-NSIAD-92-25), dated April 9, did not find specific weaknesses in INS's interviewing and screening procedures, but did find weaknesses in the administrative procedures that followed the interviews, including numerous errors in the INS computer data base, which is used in the processing of individuals for return to Haiti. "We found that because of these weaknesses at least 54 Haitians were apparently mistakenly repatriated," said the report. The GAO added that "we believe our numbers may understate the problem."

While the GAO found that living conditions have been adequate to date, it noted that the Haitians are being housed in tents on an old aircraft runway, and water is provided through pipes laid on the surface. "With the onset of hot weather, and temperatures well over 100 degrees," said the report, "we were told that tents would become unbearable and the water virtually undrinkable."

On April 9, INS Commissioner Gene McNary responded to the GAO findings before the House Subcommittee on Legislation and National Security. "We are in the process of trying to learn with certainty whether any such mistakes have taken place," he said. McNary went on to suggest several possible explanations for the discrepancies, such as the possibility that the GAO was looking at first interviews of persons who were interviewed a second time because their first records were lost or deliberately masked.

Double-backers McNary also discussed the 42 "double-backers," who were returned to Haiti in November only to leave a second time and be interdicted again. The 42 double-backers established a credible fear of returning at their second interviews at Guantánamo (see *Refugee Reports*, Vol. XIII, No. 2). "This result," said McNary, "led many observers--including the press-- to make the inference that they were screened in because of a fear of retaliation upon return to Haiti for having fled in the first place.

"This inference is not correct," McNary declared. "All screening decisions--including those involving the 'double-backers'--were based on evidence of mistreatment or fear of mistreatment because of events that took place before their first departure from Haiti. To date, there is no credible evidence of systematic persecution of repatriates."

Testifying at the same hearing, William G. O'Neill of the Lawyers Committee for Human Rights charged that neither the U.S. embassy nor the UN High Commissioner for Refugees is able to monitor the fate of those who are forcibly repatriated. He cited cases in which journalists trying to locate repatriates were themselves detained and their lives threatened. "The Haitian Red Cross has blocked every effort by Haitian human rights groups who have sought to meet and interview those forcibly repatriated," he charged. O'Neill said that the Haitian Red Cross, which is responsible for resettling the repatriates, is neither independent nor impartial, noting, for example, that the head of the Red Cross was appointed by the de facto government.

Lawyers in both the *HRC* and *HCC* suits also testified at the April 9 hearing. Ira Kurzban, who represented the Haitian Refugee Center, noted that the week the Supreme Court denied certiorari in the *HRC* case marked the 50th anniversary of the internment of Japanese-Americans during WW II, upheld by the Supreme court then in the *Korematsu* case. "In both cases," said Kurzban, "the government used grossly inflated and ultimately false information to persuade the courts that this was a matter of great national security." Kurzban said that in both cases the courts abandoned their traditional role of protecting insular minorities.

"The collapse of the courts," said Kurzban, "and even some members of Congress, in the face of concerns over black refugees entering the United States is a shameful reminder of how little we have progressed in the fifty years since the Japanese internment cases and the return of Jewish refugees aboard the St. Louis on the voyage of the damned."

Updates

- On April 3, the Senate Subcommittee on Immigration and Refugee Affairs approved the "Chinese Student Protection Act," S. 1216, which would enable certain nationals of the People's Republic of China to adjust to permanent resident status if the President has not certified by October 1, 1993 that conditions in the PRC are such that Chinese can return in safety.

The bill would apply to Chinese nationals who have resided continuously in the United States since June 4, 1989, the date of the Tiananmen Square massacre, and held a valid nonimmigrant visa or were otherwise in legal status, as of April 11, 1990. The bill would defer their enforced departure from the United States until January 1, 1994, and authorize them to work during that time. (This is similar to "temporary protected status" that was included as a provision of the Immigration Act of 1990, but did not include a specific reference to PRC nationals. Chinese students have been protected instead by "deferred enforced departure," essentially an exercise of the Attorney General's discretion not to deport, based on President Bush's executive order of April 1990.) If the President certifies that conditions in China are still unsafe, the bill would give them six months in 1994 to register for adjustment of status.

- On March 10, a panel of the U.S. Court of Appeals for the Ninth Circuit ruled that the Executive Office of Immigration Review (EOIR) is not required to translate immigration proceedings in their entirety for non- and limited-English speaking aliens in immigration proceedings. Earlier, a district court had ruled in favor of the plaintiffs in *El Rescate Legal Services v. EOIR*, holding that the EOIR's failure to provide full translations in hearings before immigration judges in southern California denied the aliens' rights to counsel and to examine evidence and enjoining the EOIR from not providing full translations.

  The ninth circuit panel ruled that whether a hearing should be translated in its entirety ought to be decided by the immigration judge "in the sound exercise of his discretion," which, it observed, is the stated policy of the Board of Immigration Appeals (BIA). The panel reversed the district court's summary judgment in favor of the plaintiffs, but remanded the case to the district court for further proceedings to determine whether the EOIR applies the BIA's policy in a manner that denies limited- and non-English speakers their constitutional rights.

- On April 8, the Senate Judiciary Committee approved a bill to ease the immigration of Soviet scientists to the United States. The Commonwealth Scientists Immigration and Exchange Act (S. 2201) would enable nuclear, chemical, biological, and other high-tech scientists from the former Soviet republics to immigrate under less stringent requirements than are currently in place for second preference, employment-based visas. The bill passed by voice vote.

- On April 19, UN Secretary General Boutros Boutros-Ghali visited a refugee camp in western Cambodia as part of the UN-sponsored effort to repatriate some 370,000 Cambodian refugees in Thailand.

- Prince Teymuraz Bagration, former head of the Tolstoy Foundation, died on April 10 at the age of 79. Himself a refugee from the Russian Revolution, Bagration served the Tolstoy Foundation for 43 years, serving as executive secretary, executive director, and chief executive. Bagration was also a founding member of InterAction and a long-time board member of CARE.

- Bangladesh and Burma have signed an agreement that calls for the repatriation of more than 250,000 Burmese refugees from Bangladesh. The agreement, signed on April 28, calls for a "safe and voluntary" repatriation, but does not make specific provision for the UN High Commissioner for Refugees (UNHCR) to be present in Burma to protect the returnees. Without such a provision, refugee advocates say, many of the refugees are unlikely to repatriate.

- According to UNHCR, the death rate among the more than 180,000 Somali and Ethiopian refugees in Kenya "has reached alarming proportions." In Ifo refugee camp, which is home to some 30,000 Somali refugees, 485 refugees died in March. At Walda camp, 152 Ethiopian refugees died during a one-week period.

  Many of the deaths are occurring among newly arrived refugees, who, UNHCR says, arrive "in an appalling condition--some little more than skin and bones and many with gunshot wounds." The refugees are fleeing the anarchy that prevails in Somalia, which has prevented food aid from reaching hundreds of thousands of people at risk, and continuing civil strife in Ethiopia.

  The influx of Somali and Ethiopian refugees began in December 1990 and has continued, with ebbs and flows, ever since. UNHCR has frequently been criticized for its handling of the relief effort in northern Kenya. Even a team of representatives of various UN agencies and the Kenyan government that visited the camps in January said that "arrangements in all of the camps were grossly inadequate even to cater for the existing population." The team added that "poor management" was a contributing factor to the high death rate in the camps.

UNHCR has recently dispatched emergency medical teams to the area and solicited donations of high protein foods for the most severely malnourished refugees.

Recent Developments

INS Establishes Asylum Pre-Screening at all INS Detention Facilities and Major Ports of Entry

The Immigration and Naturalization Service (INS) has decided to place asylum pre-screening officers (APSOs) at certain airports and ports of entry to determine whether excludable asylum seekers should be recommended for parole into the United States, according to an April 20 memorandum issued by INS Commissioner Gene McNary.

This marks a significant change from current practice, under which aliens apprehended at ports of entry with improper travel documents are automatically detained and placed into "exclusion" proceedings before immigration judges. However, the practical reality is that not enough detention space is available for the number of asylum seekers arriving without proper documents.

Between FY 87 and FY 90, the number of aliens arriving at airports with improper documents doubled to 43,580. A January 27 *Washington Post* story, "INS's Unofficial Open Door," estimated that more than 10,000 were expected to arrive at Kennedy airport this year. "As a result," said the article, virtually everyone is allowed in. Those without proper entry documents...are detained briefly at the airport and told to appear at a hearing before an immigration judge--14 months later. Most never show up."

McNary said that the new procedure will enable the INS "to detain those persons most likely to abscond or to pose a threat to public safety rather than to base the detention decision solely or primarily on the availability of detention space."

Under the new system, excludable aliens making asylum claims would be interviewed to take a first cut on their eligibility to enter and the credibility of their asylum claim. Upon review of the APSO's recommendation for parole, INS district directors will have the discretion to determine that exclusion/deportation hearings should be terminated and the case referred to the asylum office for processing. Until now, persons apprehended at airports have been placed immediately in exclusion proceedings before immigration judges and did not have an opportunity to raise an affirmative asylum claim with an INS asylum officer.

The Service will also conduct pre-screening interviews at all INS detention facilities, as well as contract facilities where Service personnel are available to conduct interviews. The memo says that these interviews will be conducted, wherever possible, by APSOs, who will either be members of the asylum corps (see *Refugee Reports*, Vol. XII, No. 5) or inspectors or other INS officers who have been specially trained in asylum law and asylum interviewing techniques.

Pre-screening Criteria The criteria used to determine whether to recommend an asylum seeker for parole involve a combination of credibility and eligibility tests, including establishing the alien's identity and nationality. Among other points, the memo instructs interviewers to determine:

* if the allegations in the person's asylum application appear to be credible "and provide substantial support for the application or request";
* if the person had participated in the persecution of others;
* if the person has been convicted of an aggravated felony or of a particularly serious crime in the United States constituting a danger to the community;
* if the person has been firmly resettled in another country; or
* if the person is regarded as a danger to the United States.

In order to be paroled, the asylum seeker will also have to agree to contact the local INS office each month; appear for all hearings or interviews with the INS or EOIR; appear for deportation, if so ordered, or to report for detention if failing to comply with any of these requirements or for being convicted of a felony or three misdemeanors.

"If the interviewer has found that the person has met the above criteria," wrote McNary, "and in the absence of other factors suggesting an unusually strong risk that the person will not appear for further proceedings, the interviewer shall recommend to the district director that the person be paroled."

Directive Based on Success of Pilot Parole Project The memorandum cites the preliminary results of the Pilot Parole Program involving the release of 200 detained asylum seekers between May 1990 and October 1991 as the reason for the nationwide expansion to all INS detention facilities and major ports of entry. The Pilot Parole Project was tested in four cities, Los Angeles, Miami, New York, and San Francisco.

An evaluation of the pilot parole project conducted by the Lawyers Committee for Human Rights (LCHR) found that, of those released with community support, 93 percent reported as required to the INS, and 95 percent appeared for court hearings (see *Refugee Reports*, Vol. XII, No. 2).

Arthur C. Helton, director of the LCHR Refugee Project, applauded the move, saying, "Thousands of refugees will gain their liberty as a result of this fundamental change in policy." Helton congratulated the INS for its "enlightened approach," and said that the decision to expand the release program "heralds and end to a brutal policy of unnecessarily detaining refugees."

APSOs Used for Interdicted Haitians, Included in Draft Summary Exclusion Bill Asylum prescreening is not an altogether new concept. The APSO acronym came into regular usage at the INS with a March 1, 1991 memorandum delineating how APSOs should conduct interviews of Haitian boat people interdicted by the Coast Guard "to determine the extent and reasons of the fear and the credibility of the applicant."

An INS source has also told *Refugee Reports* that the goal of the Service is not only to have those persons certified as "genuine asylum seekers" by the APSOs paroled in, but to have those not certified placed directly into exclusion proceedings, or, if the law is changed, summarily excluded.

Although no bill has yet been introduced, summary exclusion legislation drafted by the INS has been widely circulated in Washington. The draft bill, "Port of Entry Inspections Improvement Act of 1992," would direct specially trained INS officers to determine if asylum seekers arriving at ports of entry with improper travel documents have a credible fear of persecution. "If the officer determines that the alien does not have a credible fear of persecution....," says the draft bill, "the alien may be specially excluded and deported.... the alien may not appeal such determination."

The editors of the immigration law weekly, *Interpreter Releases*, speculated in their April 27 issue that "it is possible that at some point in the future an asylum-seeker arriving at a port of entry would have to go through two 'pre-screenings,' one to be paroled into the U.S. and one to be released from detention, in addition to the full-blown asylum application process."

STATE DEPARTMENT BUDGET SEEKS TO MEET REPATRIATION OPPORTUNITIES AND REFUGEE EMERGENCIES

Citing historic opportunities for repatriation as well as new refugee emergencies, the State Department is seeking $550 million to cover refugee admissions and overseas assistance in FY 93. This represents an increase of almost $60 million above the Bush Administration's FY 92 request. Nearly half of the proposed increase would go to assistance programs in Africa, the Near East, and South Asia. Funding for U.S. admissions of an estimated 122,000 refugees would grow by $15 million from the FY 92 request.

As it turns out, however, the State Department actually is seeking substantially *less* money for refugee admissions and assistance next year than it has in its account now. While the FY 93 budget proposal is $60 million more than the government asked for this fiscal year, it is about $70 million less than Congress approved for the last half of FY 92. At the end of March, the House and Senate passed a continuing resolution (P.L. 182-266) that made available $620 million for Migration and Refugee Assistance (MRA).

The bill also appropriated $50 million for the Emergency Refugee and Migration Assistance (ERMA) fund. The Administration requested $20 million for the refugee emergency relief fund in FY 92 and the same amount for FY 93.

FY 92 Money Delayed for Six Months The $620 million figure comes from an FY 92 foreign operations appropriations bill (H.R. 2621) that the House of Representatives passed on June 19, 1991. "The Committee has been concerned for some time with the chronic underfunding of this account by the Administration," said an accompanying report from the House appropriations subcommittee on foreign operations, chaired by Rep. David Obey (D-Wis.).

In FY 90, "the Committee was forced to bring a supplemental to the House in the amount of $100 million to address urgent unfunded refugee requirements," the report said. In FY 91, Congress approved a budget supplemental of $143 million for refugee needs in the Gulf.

"The budget request for FY 92 substantially underestimates refugee problems," the House report said, "and the Committee believes it is prudent to address the problem at this time, rather than in another supplemental."

But a dispute between Congress and the Administration over a $10 billion loan guarantee package for Israel delayed passage of the FY 92 foreign operations appropriations bill and forced the State Department to operate at FY 91 levels of spending from October 1, 1991 to March 31, 1992.

The new continuing resolution incorporates the refugee program earmarks from H.R. 2621, including $315 million for overseas assistance programs, $80 million for Soviet and Eastern European Jews resettling in Israel, $1.5 million for Tibetan refugees, and $1.5 million for the voluntary repatriation of Hmong refugees from Thailand to Laos.

"Great Humanitarian Opportunity" for Repatriation "Resolution of conflicts that were fed in part by the Cold War--Cambodia, Angola, El Salvador--and of the civil war in Ethiopia, plus growing prospects for a settlement in Afghanistan, offer us the prospect of enabling 3 million of the world's refugees to go home," said Ambassador Princeton Lyman, director of the State Department's Bureau for Refugee Programs (BRP). But while these repatriations represent a "great humanitarian opportunity," he told the House subcommittee on foreign operations on March 17, the process is "costly and time-consuming."

The UN High Commissioner for Refugees (UNHCR) has estimated budget needs totalling $941 million in 1992, of which $400 million would support more than 20 separate repatriation efforts on five continents. UNHCR's single most expensive repatriation undertaking--costing $60 million in 1992 and at least twice that altogether--will be the voluntary return of 370,000 Cambodian refugees from camps on the Thai border. The cost per refugee, according to Lyman, will be roughly $350.

But if Cambodia is the most expensive repatriation effort this year, Afghanistan could prove ultimately to be the largest. More than 6 million Afghan refugees have been living in Pakistan and Iran, most for well over a decade. UNHCR has budgeted about $24 million in 1992 to assist 200,000 Afghan refugees who have voluntarily returned from Pakistan and Iran in the last 18 months.

"In any other program in the world, if in such a short time you had 200,000 people repatriating, you would say that's a terrific number," the UNHCR chief of mission in Pakistan, Nicholas Morris, told *Refugees* magazine. "In absolute terms, it is terrific. But in relative terms, it's not much."

The pace of repatriation could accelerate rather quickly, however, in light of the recent victory by the splintered Afghan resistance, the *mujaheddin*, over the formerly communist government in Kabul. On April 28, forces loyal to the Jamiat-i-Islami (Islamic Society) faction, installed Sibghatullah Mojadidi as president of a new Islamic government. Although factional fighting continues in some parts of the country, increasing numbers of Afghan refugees may feel that it is safe enough to return home.

"For the first time in more than a decade, we have the opportunity to help millions of refugees go home," said Roger Winter, director of the U.S. Committee for Refugees, in a letter to Obey. "But this historic chance will go begging if there is not sufficient funding to effect safe return and reintegration." Winter recommended that the FY 93 budget for overseas assistance should be at

REFUGEE PROVISIONS IN FY 92 APPROPRIATIONS AND AUTHORIZATION BILLS

The Continuing Resolution (P.L. 182-266) to appropriate funds for the State Department's refugee programs in the last half of FY 92 incorporates language from H.R. 2621, the foreign operations appropriations bill which the House of Representatives originally passed last June.

MIGRATION AND REFUGEE ASSISTANCE

Appropriates $630,000,000 for Migration and Refugee Assistance in FY 92.

Earmarks: not less than $315,000,000 shall be available for overseas refugee programs.

not less than $80,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel.

not less than $1,500,000 shall be available for Tibetan refugees.

not less than $1,500,000 shall be available for voluntary repatriation of Hmong refugees from Thailand to Laos through nongovernmental organizations.

not more than $11,000,000 shall be available for administrative expenses of the Bureau for Refugee Programs in the State Department.

EMERGENCY REFUGEE AND MIGRATION ASSISTANCE (ERMA) FUND

Appropriates $50,000,000 to remain available until expended.

In addition, the State Department authorization bill (P.L. 102-138) contains the following language relevant to refugee programs.

SEC. 104 MIGRATION AND REFUGEE ASSISTANCE

Authorizes $630,000,000 for Migration and Refugee Assistance in FY 92 and $650,000,000 in FY 93.

Earmarks: not less than $1,750,000 in FY 92 and FY 93 for unaccompanied minor children assisted under the Comprehensive Plan of Action in Southeast Asia.

up to $5,000,000 may be available for migration assistance to displaced ethnic Armenians resettling in Armenia.

not less than $1,000,000 for Burmese displaced as a result of civil conflict.

least maintained at $315 million.

Near East/South Asia In seeking $106 million for assistance programs in the Near East/South Asia region, the State Department noted in its Congressional budget presentation that "UNHCR FY93 will be increasingly involved in protection and integration issues inside Afghanistan."

BRP has estimated that it will contribute about $18.5 million to UNHCR, primarily for assistance programs for Afghan refugees. "This request," the State budget presentation said, however, "is not intended to finance a large-scale movement of refugees in the wake of a political settlement to the Afghan conflict."

The bulk of the U.S. contribution to refugee assistance programs in the Near East/South Asia region in FY 93--an estimated $70 million--would go to the UN Relief and Works Agency for Palestine Refugees (UNRWA) to assist more than 2.5 million Palestinian refugees in Jordan, Syria, Lebanon, the Gaza Strip, and the West Bank.

Within the overall FY 92 MRA budget, though not specifically part of the overseas assistance account, is a Congressional earmark of $80 million for the resettlement of Soviet, Eastern European, and other Jewish groups resettling in Israel. Although the number of Soviet immigrants to Israel declined somewhat from 184,500 in 1990 to 145,000 in 1991, the Israeli government expects the exodus to continue at high levels for the next several years.

The Administration has proposed a level of $50 million for resettlement in Israel in FY 93.

Africa With more than five million refugees and at least twice that number of internally displaced persons, "Africa continues to be the most troubling and difficult continent in which to provide adequate protection and assistance," Lyman said. Civil wars in the Sudan, Liberia, and Somalia have uprooted hundreds of thousands of people, and southern Africa "is experiencing a devastating drought, perhaps the worst in this century," the BRP director said.

But there are also in Africa "islands of hope," said Lyman. "The end of almost thirty years of civil war in Ethiopia means the hope for repatriation of 250,000 Eritreans in Sudan" as well as 350,000 refugees from the Tigray and Ogaden regions. "Some 400,000 Angolan refugees are poised to return home and over 10,000 South African exiles are coming home under UNHCR protection," Lyman said. "We need to make these returns work."

In FY 91, the State Department spent $133.5 million on refugee assistance in Africa, including $48 million in ERMA funds. BRP is seeking $104 million in MRA funding in FY 93 for protection and assistance programs in Africa.

The admissions ceiling for African refugees is 6,000 in FY 92. As of March 31, 1,866 African refugees had entered the United States, including 1,318 Ethiopians. Although the State Department has not yet proposed any regional ceilings for FY 93, its Congressional budget presentation said that "Ethiopian refugees who fled Ethiopia during the Mengistu regime and have applied for U.S. refugee admission and Liberians in West Africa are expected to be the largest groups in need of resettlement outside of Africa."

In a March 25 report submitted to the Administration, fourteen members of InterAction's committee on migration and refugee affairs offered their comments and recommendations on FY 93 refugee admissions. For Africa, the InterAction report recommended a regional admissions level of 10,000, including at least 3,000 for Somali refugees, 3,400 for Ethiopians, and 2,000 for Liberians.

East Asia "The most dramatic recent event in Asia," said Princeton Lyman, "is the agreement to end the war in Cambodia." Under the terms of the UN peace plan that was signed in Paris on October 23, 1991, the 370,000 Cambodian refugees in Thailand are expected to be home, safely and voluntarily, before elections are held in early 1993.

According to an April 14 information bulletin from UNHCR, 330,000 Cambodian refugees have registered to return with the UN, although only about 2,500 had actually done so. Aside from the problems of landmines, malaria, and security, UNHCR has been able to identify suitable land for only about 5,500 families in the northwestern provinces, "less than expected or hoped," the bulletin said.

Thus far in FY 92, the State Department has contributed $20 million to Cambodian repatriation, and estimates that it will give about $14.5 million next year.

BRP's FY 93 request for $48.8 million for assistance programs in East Asia is dedicated "in large part" to the UNHCR for the regional Comprehensive Plan of Action (CPA) for Indochinese refugees, according to the budget presentation. The basic terms of the CPA require that all newly arriving Vietnamese and Laotian asylum seekers must submit to screening by an immigration official in the country of first asylum. Those who are screened in are permitted to seek resettlement in a third country. The screened-out are expected, sooner or later, to return to their country of origin.

In the three years that the CPA has been in existence, Vietnamese boat arrivals in the region have fallen substantially--from 70,000 in 1989, 32,000 in 1990, to 21,900 in 1991. The rate of legal departures from Vietnam via the Orderly Departure Program (ODP), meanwhile, has risen just as dramatically--36,600 in FY 89, 63,000 in FY 90, and 82,600 in FY 91.

Lyman called the CPA "successful in many important respects. The practice of first asylum has been preserved,...with the regrettable exceptions of Malaysia and Singapore." Almost 16,000 screened-in refugees have been resettled, he said, and voluntary repatriation to Vietnam "now averages more than 1,700 a month. Monitoring of the returnees in Vietnam is carried out by UNHCR, and there has been no evidence that any have been persecuted."

The InterAction report was critical of Hong Kong's forced repatriation program--since October 29, Hong Kong authorities have involuntarily returned 123 screened-out Vietnamese--and expressed concern about "inequities and inconsistencies in the status determination procedures across Southeast Asia."

"Several thousand [unaccompanied] minors remain in Southeast Asian camps," the voluntary agencies also noted, "and we consider it of primary humanitarian importance that these cases be processed as quickly as possible and without any pre-determined assumptions that return to Vietnam is the best solution."

The InterAction report recommended that 15,500 U.S. admissions spots be set aside in FY 93 for resettlement of refugees in first asylum countries, including Vietnamese, Cambodians, Highland Lao, and Burmese. In addition, InterAction called for the admission of 44,000 Vietnamese refugees, former political prisoners, and special Amerasian immigrants.

The FY 92 admissions ceiling for East Asia is 52,000, including first asylum and ODP numbers, and the State Department is expected to request a similar level for FY 93.

Eastern Europe and the Former Soviet Union "The dissolution of the Soviet Union has brought increased freedom in many areas," Lyman said, "and new [refugee] applications...have slowed considerably. Nevertheless, there remains a substantial pipeline of current applications to be processed representing persons qualified under U.S. law and for whom the spectre, particularly of religious persecution, remains."

Lyman said he expected the Soviet admissions program to continue next year at a level of about 50,000. The FY 92 ceiling for Eastern Europe is 3,000, of whom 1,800 had been admitted halfway through the fiscal year, including 1,000 Romanians and 631 Albanians.

Although Eastern Europe and the Soviet Union have long commanded significant attention in the refugee admissions program, the regions are now seeking refugee assistance as well. So far in FY 92, the State Department has spent $7 million in ERMA funds to assist refugees and displaced persons from the civil war in Yugoslavia.

With the increased appropriation for refugee assistance for the second half of FY 92, BRP has allocated about $18 million for assistance programs in Europe and the Soviet Union. Of this sum, Congress has earmarked up to $5 million to be spent on displaced ethnic Armenians resettling in Armenia.

Latin America and the Caribbean Refugees in Latin America and the Caribbean number about 120,000, according to USCR's 1992 *World Refugee Survey*, with the single largest group being 46,000 Guatemalans in Mexico. About 25,000 Nicaraguan refugees and a similar number of Salvadorans remain in the region.

The peace accord in El Salvador holds out hope that voluntary repatriation of Salvadoran refugees could accelerate, and the situation in Nicaragua remains relatively stable.

The State Department spent $9.8 million on regional refugee assistance programs in FY 91 and has a similar amount available for the second half of FY 92. Next year, however, BRP has proposed cutting the Latin America/Caribbean allocation to $4.5 million, of which $2 million would go to UNHCR and $2 million to the International Committee of the Red Cross (ICRC).

According to the State Department FY 93 budget presentation to Congress, UNHCR plans to begin repatriation of 10,000 Guatemalans in Mexico and will assist most of the Nicaraguans and Salvadorans to return home by 1993.

"With the developing peace process in El Salvador," the BRP report said, "ICRC activities there will decrease as will operations in Nicaragua. However, ICRC is expected to increase its level of assistance to victims of conflict in Peru and Colombia."

Despite the improved prospects repatriation in the region, the InterAction agencies said they "continue to be concerned about the inability of the U.S. refugee program to respond creatively and responsibly to refugee resettlement needs in the Western Hemisphere."

The InterAction report was especially critical of U.S policy that had led to the forcible repatriation of some 9,450 Haitian asylum seekers at that time. "The agencies strongly object to this disregard of established legal norms against forced return and urge the United States to cease all further forced repatriation programs until conditions in Haiti permit and guarantee their safety."

The voluntary agencies recommended an FY 93 admissions ceiling of 9,500 for Latin America and the Caribbean. Included in this number would be 5,000 Cubans, 3,000 Haitians, and 1,500 Central and Latin Americans. The FY 92 regional ceiling is 3,000, and is being used almost exclusively to admit Cubans.

Feature

BHUTANESE AND TIBETAN REFUGEES IN NEPAL

(Refugee Reports *staff writer Hiram A. Ruiz traveled to Nepal in early March 1992 to document the situation of Bhutanese and Tibetan refugees there.)*

Little noticed by the outside world, more than 31,000 refugees have fled to Nepal from the isolated mountain kingdom of Bhutan. The Bhutanese refugees, who are ethnic Nepalese, claim that the government of Bhutan is engaged in a campaign to force them out of Bhutan. They say that the Bhutanese authorities subjected them to human rights abuses, including arbitrary arrests, beatings, rapes, and forced labor, and discriminated against them in other ways, for example by forcing them to wear traditional Bhutanese dress and by banning the use of the Nepalese language in schools.

The cause of the Bhutanese refugees' flight is remarkably similar to that of Burmese Rohingya refugees in Bangladesh (see *Refugee Reports*, Vol. XIII, Number 3). However, in part because the number of refugees in Bangladesh is so much larger--more than 250,000--that situation has drawn considerably more international attention.

A small number of Bhutanese refugees began arriving in Nepal in early 1991 (numbering some 9,000 by the end of that year). But a majority of the refugees have arrived since January 1992. As many as 250 Bhutanese refugees continue to enter Nepal every day. Their number is not large compared to that of other refugee populations, but is significant considering that the entire population of Bhutan is only some 600,000 to 1.3 million (the actual population of Bhutan is disputed), as many as 53 percent of whom may be ethnic Nepalese.

Initially, there were criticisms of the Nepalese government's and UN High Commissioner for Refugee's response to the Bhutanese refugees. An international observer who was present in the area in early 1991 said that the Nepalese government was loathe to assist the refugees for fear that such a move might "hamper relations with the government of Bhutan," and also create a pull factor, i.e. encourage more Bhutanese to flee to Nepal. Therefore, for several months after the influx began, the government did not extend an invitation to UNHCR to assist the refugees, who, the observer said, lived "on hand-outs from the already impoverished local population."

Nepal Requests International Assistance Since mid-1991, however, the Nepalese government has allowed the refugees, who have the same language, culture, and religion as its own citizens, to enter Nepal freely, and granted them "humanitarian asylum." It has also encouraged UNHCR to assist the refugees (the government says that it does not have the resources to assist the refugees itself). UNHCR, operating with limited resources, coordinates a program of assistance that is implemented by several local and one international relief group. Much of the day-to-day running of the camps is

Bhutanese refugees in Nepal: mother and child at a supplementary feeding center in Timai camp.
Photo: USCR/H.Ruiz

done by refugees themselves, through a self-help group called the Human Rights Organization of Bhutan (HUROB).

The two refugee camps are overcrowded. They are both located on river beds that are likely to flood when the rainy season begins in early summer, and most services are still scarce. In late March, an epidemic of dysentery hit the camps. More than 30 refugees reportedly died during a 72-hour period. Sanitation in the larger of the two camps, Maidhar, is appalling. The camp is expected to be closed soon and the refugees transferred to a new site. Health workers say that they hope to provide better sanitation facilities and undertake a more thorough campaign to educate the refugees on sanitation issues at the new site.

'Bhutanization" Bhutan is politically and socially dominated by the Drupka ethnic group (Drupkas are Buddhists who are closely related to Tibetans; the refugees are ethnic Nepalese and are mostly Hindu). In recent years, the Bhutanese government, apparently alarmed by the growth of the ethnic Nepalese population, has taken steps aimed at "Bhutanizing" the ethnic Nepalese. These include forcing ethnic Nepalese to wear traditional Drupka attire, prohibiting the use of the Nepalese language in schools, and passing legislation restricting their citizenship rights.

In late 1990, a number of ethnic Nepalese supported a pro-democracy movement in Bhutan. According to R. K. Budathoki, president of the Bhutan People's Party, a political organization, the Bhutanese government's response to pro-democracy demonstrations was harsh. He said that the Bhutanese military imposed martial law, closed schools, raided villages in southern Bhutan and burned houses, and detained a number of individuals. Since then, the refugees say, the Bhutanese authorities have carried out a systematic campaign of terror aimed at driving them out of Bhutan, with the aim of restoring a Drupka majority in the population.

According to a Western relief worker whom *Refugee Reports* interviewed in Nepal, the Bhutanese military's actions appear calculated, targeting key individuals in villages, and then threatening others in the villages. This source added that it appears that the Bhutanese military limit their actions to only some villages at once in order to avoid so many refugees leaving at one time that it would draw the attention of the international community.

One refugee, 49-year-old Bahadur, described how the military came to his village and rounded up all the men, telling them that each family in the village would have to provide the army one girl over the age of 16 and one boy over the age of 18. Rather than comply, Bahadur and his family fled to Nepal. Another refugee, Parsad, said that he was arrested on July 29, 1991, imprisoned for four months, and repeatedly beaten, sometimes so badly that he could not walk back to his cell on his own.

Other men said that they were detained anywhere from one day to more than a year, and showed the marks on their bodies that they said were the result of beatings. One seven-year-old girl described how after soldiers arrested her father, they beat her on the back, then stole all of her family's belongings. A boy, not much older than she, said he saw soldiers set fire to his family's hut while his baby sister was inside in her crib. He ran into the house to save the baby--and although both survived, each is badly scarred. Several women told of being raped by soldiers.

Only a minority of the refugees appear to have been directly subjected to these abuses. According to Dr. Bhampa Rai, head of HUROB, "The more important people in the town are detained and beaten until they agree to leave the country and say that they are going voluntarily. When people see one family getting tortured, they get frightened and also want to leave." Some refugees said that the Bhutanese military forced them to sign many papers which said that they were leaving Bhutan voluntarily, that they were renouncing any claim to Bhutanese citizenship, and giving up the rights to their land and homes.

Another 20,000 or more Bhutanese refugees are living in India, although that country does not grant them refugee status or formally assist them (but does allow them to work).

Tibetan Refugees The flight of refugees from Tibet continues. For many, the difficult and often dangerous journey across Tibet ends well: they are able to reach Kathmandu, the Nepalese capital, then continue on to Dharamsala, India, where more than 100,000 Tibetan refugees--and Tibetans' spiritual leader, the Dalai Lama--live. But for others, reaching Nepal does not mean reaching safety; it means being robbed, beaten, forcibly returned to Tibet, and again beaten and/or detained by the Chinese authorities.

Maidhar refugee camp, Nepal. *USCR/H. Ruiz*

In the late 1980s, Tibetan demonstrations against Chinese rule, which have taken place periodically since China occupied Tibet in 1949, increased. In March 1989, the Chinese authorities opened fire on a group of demonstrators, many of whom were Buddhist monks and nuns, killing dozens (some reports said hundreds). Afterwards, China imposed martial law in Tibet. When martial law was lifted in May 1990, a new exodus of Tibetan refugees began.

Between August and December 1990, some 1,387 Tibetans fled to Nepal and reached Kathmandu, where they received temporary assistance from UNHCR and local Tibetans before continuing onward to India. During 1991, 2,053 Tibetans reached Kathmandu. But not all Tibetans who enter Nepal make it to Kathmandu, or to safety.

In early January 1992, Nepalese border guards shot and killed a Tibetan refugee who had fled to Nepal. The Nepalese government admitted that the shooting had taken place, but said that the police shot the Tibetan in self defense, when he and 20 other Tibetans attacked the policemen with knives. But when some of the refugees in that group later reached Kathmandu, they said that their group had consisted primarily of women and children, and that it was the police who attacked them.

Unlike the Bhutanese refugees, Tibetans are not welcome guests in Nepal. According to UNHCR, "Tibetans are considered illegal entrants by the government of Nepal. They are often apprehended by police at the border checkpoints and, because they are without valid documents and are unable to bribe the police to let them go, they are often beaten, robbed, and refouled [forcibly returned] to Tibet (China)." Reliable sources estimate that Nepalese border guards forcibly hand over as many as 30 Tibetan refugees per month to the Chinese authorities at the Tibet/Nepal border.

The government of Nepal insists that it is not its policy to forcibly return Tibetan refugees. In late February 1992, the central government reportedly issued a notice to border guards saying that genuine refugees should not be prevented from entering Nepal. An official at the Nepalese government's Home Ministry told *Refugee Reports*, "We have given [the border guards] clear instructions. We've told them not to make any obstructions [for refugees]."

It is too early to tell what effect the government's recent directive to border guards will have. But some observers in Kathmandu are pessimistic. They note that the week after the directive was issued, Nepalese border guards forcibly returned 18 Tibetan refugees.

Job Board

Staff Attorney Proyecto Libertad, a nonprofit legal services and advocacy organization, is seeking an attorney to represent Central Americans in all facets of immigration law, including asylum hearings, bond reductions, change of venue proceedings, appeals, and exclusion. There also may be litigation and supervision of paralegals. Candidates must be bilingual in English/Spanish, committed to the rights of Central American asylum seekers, and willing to work with a diverse refugee/immigrant population. Salary is negotiable.
Contact Rogelio T. Nuñez, executive director, Casa de Proyecto Libertad, 113 N. 1st., Harlingen, TX 78550.

Associate Director of International & Refugee Ministries The Jesuit Conference, the national offices of the Society of Jesus in the United States, seeks a full-time staff member to serve as Associate Director of the office of International and Refugee Ministries.

This position requires a keen interest in and knowledge of refugee and related humanitarian issues and problems; policy, planning and administrative skills; and excellent oral communication and writing skills. Preference will be given to those with field experience in Africa and/or Asia, familiarity with the role of the U.S. government and NGOs in refugee affairs and familiar with and comfortable working in a Roman Catholic setting.
Contact Letter and resume to: Rev. Robert W. McChesney, S.J., International & Refugee Ministries, U.S. Jesuit Conference, Suite 300, 1424 16th Street, NW, Washington, DC 20036.

Coordinator, Children's Programs The U.S.Catholic Conference seeks a Coordinator for Refugee Children's Programs. Duties include: developing policy positions for children's programs, including international adoption practice standards, advocacy with refugee and child protection agencies, and some casework. Project development and fundraising experience helpful. Requires M.S.W. or law degree, five years experience in child welfare and familiarity with the Catholic Church's social teachings. Some travel required. Knowledge of Spanish a plus. Salary: high twenties to low thirties. Submit a resume with salary requirements.
Contact Manager of Human Resources, United States Catholic Conference, 3211 Fourth Street N.E., Washington, D.C. 20017. No phone calls.

MIGRATION AND REFUGEE ASSISTANCE
FY 93 BUDGET REQUEST (Dollars in thousands)

Activities	**1991 Enacted**	**1992 Request**	**1992 Actual**	**1993 Request**
Refugee Assistance Overseas:				
East Asia	$39,000	$49,900	$57,750	$48,750
Africa	85,200	87,100	111,150	104,000
Near East/South Asia	88,300	92,400	106,825	106,000
Western Hemisphere	9,830	4,000	9,320	4,500
Europe	--	--	18,000	2,000
Subtotal	222,330	233,400	303,045	265,250
Refugee Admissions	191,420	192,330	208,893	207,950
Other Activities	63,370	54,533	97,750	65,300
Administrative Expenses	8,528	10,294	11,000	11,500
Appropriation Total	$560,648 [a]/	$490,557	$620,688	$550,000

[a]/ This includes a $75 million supplemental appropriation for humanitarian needs related to the Persian Gulf crisis.

Source: Bureau for Refugee Programs, Department of State

REFUGEE REPORTS is published monthly for $40.00 per year for one subscription, $25.00 each for two or more subscriptions to the same addressee, or $25.00 each for ten or more subscriptions requested at the same time, mailed to separate addresses; overseas postage is an additional $24.00 for second class or an additional $75.00 for airmail; by ACNS, 95 Madison Avenue, Third Floor, New York, NY 10016. Second Class Postage paid at New York and additional mailing offices. POSTMASTER: send address changes to *Refugee Reports*, Sunbelt Fulfillment Services, P.O. Box 41094, Nashville, TN 37204.

Editorial comments and inquiries should be sent to : *Refugee Reports*, 1025 Vermont Avenue NW, Suite 920, Washington, DC 20005. All communications regarding subscriptions should be sent to: *Refugee Reports* Subscriptions, Sunbelt Fulfillment Services, P.O. Box 41536, Nashville, TN 37204. (615) 377-3322.

Basic subscription rate for 12 issues per year: $40.00; Multiple-copy rate: $25.00; Single copies of back issues: $4.00
Co-Editors: Bill Frelick and Virginia Hamilton; Staff Writers: Court Robinson and Hiram A. Ruiz
Distribution Manager: Raci Say; Production Coordinator: Koula Papanicolas
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Refugee Reports

A News Service of the U.S. Committee for Refugees, a Project of the American Council for Nationalities Service
Sunbelt Fulfillment Services
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Nashville, TN 37204

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Refugee Reports

A News Service of the U.S. Committee for Refugees
1025 Vermont Avenue NW, Suite 920 Washington, DC 20005 (202) 347-3507

Volume XIII, Number 5
May 29, 1992

UN HIGH COMMISSIONER SAYS U.S. POLICY ON HAITIANS HAS "SERIOUS IMPLICATIONS" FOR OTHER REFUGEES

Refugee Reports interviewed the United Nations High Commissioner for Refugees, Sadako Ogata, when she visited the United States in mid-May, 1992.

RR: The U.S. sets an example by its conduct that the rest of the world follows. What, in your view, is the message that is being sent by the U.S. with respect to the Haitian interdiction?

Right now, [May 20] the Haitian exodus has increased a great deal. I don't know whether the world is watching it that carefully because there are just so many exoduses of a rather major scale all over the world.

I think the U.S. has always insisted that political refugees should be given a fair chance of proving their refugee qualifications and also that political refugees should be given asylum. That is a very strong message that U.S. has always given, especially, I think, in the Southeast Asian context with regard to the Vietnam boat people. And any kind of an interdiction has been criticized by the U.S.

And so, the way the U.S. deals with the Haitians was taken as a lesson of how, for example, Southeast Asian countries would be dealing with the Vietnam boat people or any others who might come under similar circumstances. So I think the U.S. has always stood for certain principles, and not all countries have found it that easy to abide by the principles that the U.S. has so far been insisting on. And this [U.S. interdiction of Haitians] has a very serious implication because it might undermine those who leave countries for very serious repressive causes.

RR: And what has UNHCR's role been with respect to Haitian interdiction specifically?

I think we have stood for the need to examine the recent Haitian situation. Our position basically was that the political situation in Haiti was such that it was likely to produce

IN THIS ISSUE:

In an interview with Refugee Reports staff writers Bill Frelick, Court Robinson, and Hiram A. Ruiz, UN High Commissioner for Refugees Sadako Ogata said that Haitians "were likely to be people who fled because of repression and should be given temporary protected status," and that the U.S. policy on Haitians could have "serious implications" for other refugee groups 1

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refugees, and therefore, that their status should be examined. [We felt that] these people were likely to be people who fled because of repression and should be given temporary protected status or something of that sort. This was the basic principle--position--that we put forward.

When this exodus took place, we tried to help the United States bring in regional countries to offer a temporary stay, burden sharing. But there was an inability of the countries in the region to provide places to keep people.

RR: UNHCR's response to some refugee emergencies in recent years has been criticized as having been either slow or inadequate.

Which one would you say?

RR: Two examples are the response to the Liberian refugees in the first year and then, more recently, to the Somalis going into Kenya. What is UNHCR doing to improve this emergency response?

I think one of the reasons why the response has not been so positive in every front is that we just have so many. This is no excuse, but we are terribly stretched, and I think the difficulty is to mobilize adequate resources, both human and financial, to meet the crisis.

But in the case of Kenya, for example, we have had to change our office itself from an open office that was there to meet with a limited number of people to a large influx, which requires changing gears of the whole set-up. And also, sometimes working out with governments is not that easy. But what we have done, and I hope this is going to improve our responsiveness, is to set up Emergency Preparedness and Response Offices, five of them, with a team of five--each one. And each officer is responsible for a certain geographic area.

These emergency teams are to be in a country for only two months or so. A limited period during which our regular response teams and capacity is going to be built up. That is the scheme. It is still at the very initial phase, and we were not able to have an overall training for all of them because the call for emergency response has been so big that each one has had to go out right now. These teams are also to be backed up by logistic goods, logistic support of goods prepositioned or on a stand-by. We are trying to increase arrangements with various governments because there are many governments that have these capacities for various emergencies to be able to draw from them. This is the kind of thing that we are preparing, and I hope this will prove useful.

OGATA DECRIES BUSH ORDER ON HAITIANS

The United Nations High Commissioner for Refugees Sadako Ogata, in a letter sent May 27 to Under-Secretary of State Lawrence Eagleburger, expressed her "surprise and concern" over the May 24 Executive Order regarding Haitian boat people.

"I am deeply disturbed that the Executive Order denies those Haitians genuinely in need of international protection the opportunity to present their claims, thus exposing them to risk upon their return to Haiti," she wrote.

Mrs. Ogata asked Deputy High Commissioner M. Douglas Stafford to lead a delegation to Washington and other capitals in the region to seek a solution to the plight of Haitian asylum seekers that would ensure the principle of nonreturn of refugees to the country of origin.

RR: You have termed 1992 "the year of voluntary repatriation." But in some cases, and the current Rohingya Burmese refugees in Bangladesh would be an example, there are concerns that repatriation may not be fully voluntary or voluntary at all. What can UNHCR do, in a situation where a repatriation appears not be voluntary, to protect refugees?

When I said "1992 will be the year of repatriation," I never had Bangladesh in mind; I didn't even think of the exodus. I had thought more in relation to conflict resolution which became easier because of the end of the cold war and so on, and it was in this context that we saw a series

UN High Commissioner for Refugees Sadako Ogata (center), CARE Vice President Charles Sykes (left), and Indochina Resource Action Center Executive Director Le Xuan Khoa, at the High Commissioner's meeting with representatives of U.S.-based non-governmental organizations. *Photo: UNHCR*

of possible repatriations. Some 20 repatriation possibilities are backed by peace negotiations; the conflict negotiations are moving on--some more advanced than others--but these were the ones I was thinking about.

Now in the case of the Burmese-Bangladesh crisis, I think international pressure made it necessary for the two governments; Bangladesh wanted an early solution--they are a poor country; they cannot afford to have them. And also there was a lot of international pressure on the Burmese. So, the pressure was for the two governments to talk things over. But since we were also asked to come and help Bangladesh deal with the refugees, our position would be that we would have to be part of the repatriation and insist that we would be in the position to assure voluntariness on the part of those who are going back. And assure security for those who reach home. So it will be negotiation.

RR: What can UNHCR realistically do if Bangladesh says, "We are going to proceed with the repatriation," and Burma says, "We are going to proceed with accepting people back," other than, perhaps, just say, "We won't participate"?

If we clearly take our hands off, that would be a pretty strong protest. "We won't participate" sounds as if we are trying to be just neutral or something. But, this is the kind of message that I hope I don't have to send, of course.

There is already a very strong desire on the part of the refugees who are in Bangladesh, turning to us, saying that they are afraid--they don't want to go back. And so we are really performing our function of protecting the refugees by negotiating with the government. The government has postponed the decision to repatriate them.

RR: There has been a growing awareness of disparity between the protection and assistance available to refugees who flee their country and those who are displaced inside their country. In Sri Lanka, for example, UNHCR has, many would say, "stretched" its mandate to accommodate aid to internally displaced persons. Do you foresee, or, do you wish to see, any further expansion of the UNHCR mandate to assist internally displaced persons?

In material terms, I think the resources would have to be added from other sources when we undertake assistance to the internally displaced. But there are cases, situations like in Iraq, or, I think, currently in Yugoslavia, where we are to assist the displaced in the area. These are the exceptional requests from the Secretary General. This is the way we go about it at the very beginning. I think the range of possible assistance to internally displaced is a question that has to be examined--and I think some of the legal people are really examining it. We have done it on an ad hoc basis.

When there has been a clear request for us to deal with it, either from the General Assembly or the Secretary General, we have done it. But the accumulated result of our dealing with internally displaced has been pretty large. There are clear situations, especially a war-like situation, where you really cannot distinguish [between refugees and internally displaced].

RR: What has been UNHCR's role in Yugoslavia?

Humanitarian assistance and protection. On humanitarian assistance, this week we are sending convoys of trucks with food and medicine. Starting from Belgrade and Zagreb they will go to villages requiring assistance and will go to Bosnia, stopping about 100 kms. short of Sarajevo.

On protection, we are trying to take people to safe areas. But we are also trying to prevent evictions.

RR: Does a situation like Yugoslavia render the Convention refugee definition obsolete because it is based on persecution and international borders?

This is persecution in the classical sense. It is eviction based on ethnic origin.

RR: Are all ethnic groups subject to persecution?

Yes. But the Muslims in Bosnia are getting the worst of it.

RR: You have been quoted as promoting the concept of "preventive protection" for would-be refugees inside the country of origin. Iraq is one example. Could you comment on the potential difficulties that this could pose for the other concept of the right of asylum, from the Universal Declaration of Human Rights. How are the two balanced?

I think by "preventive protection" we have no desire to stop people who are in need of asylum from doing that. But I think it's much more a question of helping a situation in a way that not everybody has to seek asylum abroad. For example, educating people on their right to asylum, but also the hazards of just indiscriminately leaving countries, that kind of thing. It starts from there, I think, and I have no intention of preventive protection meaning stopping people. That's not what we are talking about.

RR: In the case of Iraq, as a case of international humanitarian intervention, do you see this as a precedent or as an exception?

I think that the international community exercising that much military force and trying to set up safe havens of that scale probably is going to be more an exception because this was an attempt to restore the right and life of the Iraqi people--the Kurds. But having taken that drastic position so long as the current Iraqi government is intact, there is a limit to the kind of protection that can be given internationally, so we were there as humanitarian go-betweens in a way. Our presence was assured by the Iraqi agreement to give us a presence there.

So it's a combination of international action, which might be called "humanitarian intervention," and the minimal acquiescence that came from the Iraqi government in the form of a memorandum of understanding accepting an international humanitarian presence that made this possible.

RR: And now UNHCR is pulling back and UNICEF is coming in; why is that transition taking place?

Because we feel that there should be some kind of a general monitoring role provided by the United Nations. At the same time, refugees have all come back; refugees are back in their country, and in a situation that is more-or-less the same as everybody else in that country is in. So as a refugee protection agency, our specific role has been accomplished.

RR: You've projected $941 million in budget needs for 1992, of which more than $400 million goes for repatriation--Cambodia being the costliest repatriation effort projected. Are you satisfied that UNHCR will have the resources to meet the needs?

I think that for Cambodia we will have the resources; we already have--we're short about $10 million, but the funding for Cambodia has been approved. But see, there are emergencies for which funding comes, and there are others for which funding doesn't come.

RR: Some say that UNHCR is doing too much for Cambodian returnees.

These people have been living in very well organized camps for the past 12 years. The program has to be able to persuade them to return with the UN and to assure them that they will have food until the first harvest.

RR: We understand that it has been difficult finding land for the Cambodian returnees.

We've started by surveying the western provinces for land availability. The presence of mines and lack of infrastructure makes this difficult. [In demining] we have tried to give priority to areas identified as only lightly mined.

RR: Where are the funding shortfalls particularly acute?

All over Africa, I think there will be a lot of funding requirements--this will make a concerted effort necessary. Bangladesh hasn't really come through yet--about a third. Yugoslavia--we will have to see, because it is just beginning.

RR: $6 million from the U.S.

Altogether the European Community has given already about $33 million. The U.S. gave 3 million before, so it's already altogether about 9 million.

RR: The prospects for Afghan repatriation on a very large scale appear more promising than before. How is the repatriation going at this point and how would you accommodate that in the UNHCR budget?

We are thinking that maybe for Afghans we might have to--we should--diversify the sources of funding. We are just at the beginning of the planning, but what is happening right now is a lot of spontaneous return.

About 500-600 families per day, about 3,000 people, are leaving from Pakistan. We have there an encashment program. We give the family cash, about $130 dollars and 300 kilos of wheat. So far, 200,000 have left under this program. But this could be completely different from what we envisioned a year ago.

RR: What about returns from Iran?

About 1,000 to 1,500 people per day are returning from Iran at this time. Soon we expect 2,500 per day.

RR: And will they receive the same level of assistance?

The Iranians might be asking for more, since in the past they received less assistance.

RR: Who else is out there to pay for such a thing and how much do you think it might cost if six million people go home?

Six million people repatriating is so enormous, I wouldn't want to even count because if you give one dollar per person, that's already...

RR: You hope that most of it is spontaneous and it takes care of itself?

Some spontaneous. So we will have to have plans that will say, "half a million, it's this much; one million, that much." That kind of planning will have to be required. But the reconstruction is also going to be very, very large.

RR: UNHCR assists repatriating refugees to get home, and provides them some immediate, short-term assistance. After, other UN agencies are often expected to provide longer-term "rehabilitation" assistance. But the two are not necessarily systematically linked...

This has been the most--the biggest--challenge I think we have of linking the various phases, and we will have to approach many other regional banks, bilaterals also, to make sure that this part is going to be considered important in the whole process.

RR: The kind of liaison at the upper levels of the UN--between you and your colleagues in other UN agencies--that would say "We can't take people back unless you are prepared to provide them some sustenance once they get there"...

The sustenance for about six months to a year is usually our responsibility, but it's much more--community-building, quick infrastructure-building, that kind of thing. I think there is still room for a lot of exploring and coalition-building of some sort.

RR: What is your feeling about the Comprehesive Plan of Action for Indochinese refugees?

The CPA was worked out by the countries in the region who brought in the need for screening. I think the CPA is a good solution: How do you deal with mixed groups [of refugees and economic migrants]? If you can't decide in the first instance, there must be a mechanism to determine their status.

Recent Developments

SALVADORAN DEPORTATIONS DELAYED ONE YEAR

On May 14, Salvadoran President Alfredo Cristiani announced that he had received a letter from President George Bush saying that enforced departures of Salvadorans registered for temporary protected status (TPS) would be delayed for another year after TPS expires at the end of June.

In the letter, dated May 4, Bush says, "Although we are not able to extend Temporary Protected Status, I am happy to tell you that Attorney General William Barr will be taking the necessary steps to grant Deferred Enforced Departure for Salvadoran citizens for one year beyond the expiration of their Temporary Protected Status." Bush assured Cristiani that Salvadorans will have "the same rights to remain and work in the United States."

Bush said that the United States would "carefully consider an extension next year." He added, however, that "the return of your countrymen will inevitably occur over a prolonged period."

The Bush letter came in response to an earlier letter from Cristiani requesting the extension of TPS. Bush expressed his sympathy with the problem of reintegrating returnees "during the difficult months ahead" as El Salvador implements its reconstruction plan.

Unlike TPS, which was incorporated into law as part of the Immigration Act of 1990, deferred enforced departure (DED) does not have statutory authority, per se, but rather is an exercise of administrative discretion not to deport. It was invoked previously on behalf of Chinese students in the United States at the time of the Tiananmen Square massacre (see *Refugee Reports*, Vol. X, No. 7). Whereas TPS is based on specific criteria having to do with conditions in the home country, such as ongoing armed conflict, DED does not require any specific findings concerning home country conditions.

Cautious Optimism Although the possible extension of TPS had been rumored for the past several months, for example, as a means of alleviating the problem of the backlog of asylum applications piling up at the Immigration and Naturalization Service (INS) (see *Refugee Reports*, Vol. XIII, No. 1), the actual announcement came as a surprise both to fairly highly placed Administration officials and members of Congress. In fact, the policy was not announced by the U.S. government, but only by the Salvadoran government, which released the Bush letter.

"This was a great relief for everybody," said Boris Canjura, national representative of the Salvadoran National Network, an umbrella group of Salvadoran organizations working for the extension of TPS. "The news puts an end to the agony of many Salvadorans living here. Now we wait to see the details."

Waiting for the details is occupying many of the nongovernmental organizations that had been active in registering Salvadorans for TPS. For example, they want to know if Salvadorans will have to re-register for DED, if Salvadorans who had not registered for TPS might be eligible for DED, or if DED registrants will be able to adjust their status.

TPS Versus DED Some of the groups wonder why the Administration chose to use DED rather than TPS. "While we are pleased that the government appears willing to enable Salvadorans to stay in the U.S. for an additional 12 months," said Angela Kelly of the National Immigration, Refugee & Citizenship Forum, "we are surprised that the Administration has not used the law Congress wrote specifically for refugees like the Salvadorans."

But while DED doesn't necessarily carry with it the imprimatur of unsafe conditions in the home country, it might present more flexibility for Salvadorans seeking relief. "For the Chinese, DED was very simple," said Canjura. He suggested that keeping it simple would be easier for the INS as well, "a quick process for dealing with 200,000 people."

The DED procedure for the Chinese students does appear to have been much simpler than TPS for Salvadorans. For example, according to a May 7, 1990 wire from INS Commissioner Gene McNary, there is no requirement that Chinese register or pay a fee for DED. PRC nationals falling within the DED criteria were also deemed eligible for work authorization, and were allowed simply to indicate their eligibility for DED on the I-765 employment authorization form without fee and without further supporting documentation.

Another possible advantage of DED is that it seems to open the door to allow beneficiaries to adjust to permanent resident status. The TPS statute specifically bars Congress from considering any bill that "provides for adjustment to lawful temporary or permanent resident alien status for any alien receiving temporary protected status." [244a(h)(1)(A)] On the other hand, the notice sent by the INS to PRC nationals told them, "If you otherwise qualify for permanent residence...and were in a lawful nonimmigrant status [before DED]...you may file for adjustment or change of status."

A bill that has passed the Senate Judiciary Committee, S. 1216, would allow Chinese nationals under the DED safety net to adjust to permanent resident status if the President does not certify by October 1, 1993 that conditions in the PRC have permitted Chinese nationals to return in safety (see *Refugee Reports*, Vol. XIII, No. 4).

INS Sends Out Interim Instructions On May 15, the INS Central Office instructed local INS offices that Salvadoran TPS registrants could be authorized to work through June 30, 1993 (the period of DED protection) by filling out the I-765 employment authorization form and paying a $60 fee. TPS registrants seeking to extend their work authorization only through June 30, 1992 (when TPS expires) will be permitted to do so by paying a $20 fee. "The choice is up to the applicant," says the memo.

INS officials were instructed to prepare Orders to Show Cause (OSCs) saying date "to be set" for persons paying the $20 fee and renewing their TPS-related work authorization. OSCs initiate deportation proceedings, and were mandated by law to be issued during the final TPS re-registration period.

For Salvadorans who have already been issued OSCs with hearing dates, but who now register for DED, the memo instructs INS officials to cancel the hearing date and advise the Salvadoran that a new date "will be set later."

Impact on ABC Settlement Although DED has raised several possibilities that could improve the prospects for Salvadoran nationals, DED has potential downsides as well. Among the concerns raised by nongovernmental groups is the possible impact on the terms of the *American Baptist Churches (ABC) v. Thornburgh* settlement, under which Salvadorans (and Guatemalans) were given the opportunity for new asylum hearings (see *Refugee Reports*, Vol. XII, No. 1).

Under the terms of the agreement, as early as 30 days prior to the termination of TPS, the government can send out notices giving Salvadoran TPS registrants 90 days to file new asylum applications.

"This has a disorienting effect on ABC," Debbie Smith, coordinator of the ABC project, told *Refugee Reports*. "DED is not mentioned anywhere in the settlement."

Smith said that in discussions with the INS's Office of Immigration Litigation, the ABC litigation team has tried to determine when the 90-day letters will go out. Smith said that although it appeared to be technically possible to send out the letters as early as June 1, she felt it unlikely that the INS would do so. "I don't see them being geared to send out 186,000 letters two weeks from now," she said.

U.S. ASYLUM PROCEDURE UNDERGOES MAJOR CHANGES

Under the burden of a growing backlog of asylum applications, the Immigration and Naturalization Service (INS) has instituted a new procedure for processing asylum applications and the work authorization documents associated with them.

Effective May 18, applicants within the jurisdictions of the Newark, Miami, San Francisco, and Los Angeles asylum offices were directed to mail their asylum and employment authorization applications instead to INS Regional Service Centers (RSCs). As of October 1, applications in the other three asylum office jurisdictions, Arlington, Houston, and Chicago, will also be mailed to RSCs. There will be no change in the procedure for asylum applications filed with immigration judges.

Until now, the INS asylum offices have handled the asylum applications in their entirety. This procedure has been in effect since final asylum regulations were promulgated in July 1990 and a specially trained corps of asylum officers was given the exclusive task within the INS of processing and adjudicating asylum applications (see *Refugee Reports*, Vol. XI, No. 7 and Vol. XII, No 5).

The asylum officers corps, which came into full operation in April 1991, has been overwhelmed by a growing backlog of asylum applications (see *Refugee Reports*, Vol. XIII, No. 1). This has been exacerbated by the Haitian refugee crisis, which has forced the asylum officers into duty at Guantánamo Bay, Cuba. Currently, about half of the asylum officers are working at Guantánamo.

Under the new procedures, which have not yet been published in the *Federal Register*, cases in four of the seven Asylum Offices filed after May 18 will initially be processed by the RSCs. The RSCs will review the applications to make sure they are complete. Incomplete applications will be returned. The RSCs will then categorize the applications into one of four groups:

Group 1. Priority Interview. This includes all cases filed for persons from Western Europe, Australia, New Zealand, and "countries contiguous to the U.S."--presumably Mexico and Canada--and "other countries which may be identified later as presenting special circumstances or sensitivities." These cases will be presented directly to Asylum Offices for immediate scheduling and for adjudication of the I-765 application for work authorization at the time of the asylum interview. These cases are considered the least likely to be meritorious.

Group 2. "Default" Group. These are cases falling in neither group 1 nor 3, cases that are neither given expedited consideration nor being deferred. After completing the data portion of the camera-ready employment authorization documents (EADs), the RSC will forward the unadjudicated EAD and asylum applications to the Asylum Offices for review. The Asylum Office will then schedule interviews, and, if necessary, make a determination on whether to grant work authorization prior to conducting the asylum interview.

Group 3. Temporarily Deferred Interviews. These are cases the RSC determines on their face to be clearly non-frivolous. Due to lack of resources, they will be deferred for later scheduling, but the EADs will be approved promptly. If resources permit, some will be scheduled for immediate interviews.

Group 4. ABC. These are asylum applications filed by Salvadorans and Guatemalans who fall within the class covered by the *American Baptist Churches (ABC) v. Thornburgh* settlement (see *Refugee Reports*, Vol. XII, No. 1). If the EAD application includes a $60 fee, the person will be issued an EAD. If a $60 fee is not included, the application will be reviewed by the RSC to determine whether the application is frivolous or not. Group 4 applications granted EADs will be authorized to work through June 30, 1994. After EAD processing, the asylum applications will be forwarded to Asylum Offices for scheduling.

New Procedure Introduced as Emergency Response The May 14 INS memorandum outlining the new procedure says that the long-term goal of the asylum program is to complete asylum cases within 90 days and to grant employment authorization only after interviews by asylum officers. "However," said the memo by Gregg Beyer, the director of asylum, and Michael L. Aytes, the director of service center operations, "due to emergency conditions stemming from the Haitian situation, and the resulting drain on resources, at this point the Asylum Offices will not be able to interview all non-ABC applicants."

The memo says that the new procedure will reduce the EAD card production workload of INS field offices by taking care of those EADs arising from asylum applications. By taking over the initial processing of asylum claims, says the memo, the asylum officer corps will be able "to focus its limited resources on adjudication of asylum claims."

Attempt To Weed Out Frivolous Claims INS sources have also said that the goal of the new procedure is to "expedite denials of unmeritorious applicants applying for purposes primarily other than asylum." The INS Asylum Office estimates that 80 to 90 percent of the cases will fall into groups 1 and 2, and will be given priority for interviews.

In a related development, on May 4, INS General Counsel Grover Joseph Rees III issued a memorandum providing guidance on the meaning of the term "frivolous". A frivolous claim is one that is "manifestly unfounded or abusive." This is interpreted to be a claim that has "no basis on which to grant asylum, is subject to mandatory denial, or is filed solely as a dilatory mechanism for purposes of avoiding departure from the United States." Rees said that where the applicant is "unable to specify and elaborate his/her claim to any of the five grounds of persecution (race, religion, nationality, membership in a particular social group, or political opinion)," the case should be deemed "frivolous". It is also frivolous if the applicant is ineligible for asylum based on one of the grounds for mandatory denial, such as firm resettlement in another country, risk to security, involvement in the persecution of others, or certain grounds of criminality abroad or within the United States.

Rees wrote that "skeletal" applications, or those containing unresponsive "boilerplate", and other applications "that provide responses so vague as to make it impossible to tell whether the claim is related to one of the five statutory grounds should be considered 'manifestly unfounded' and denied as frivolous."

The General Counsel's memorandum noted that even though it appears on its face that an asylum application will not be granted, it still might not be considered frivolous for employment authorization purposes. "This determination must be made on the basis of asylum application, supporting documentation, and, where feasible, after the asylum interview."

Advocates Cautious, Skeptical Refugee rights advocates met the announcement of the change in the asylum procedure with caution.

"Clearly there is a need for greater efficiency, particularly in work authorization for

ABC, TPS (temporary protected status), and asylum applicants," said Lucas Guttentag, director of the American Civil Liberties Union (ACLU) Immigrants' Rights Project. "But this response is a dangerous first step down the road from individualized decision-making and toward breaching the separation between the asylum corps and other duties in the Service."

Guttentag said that the new procedure departs from the model of a qualified asylum officer making decisions on the merits of an asylum claim. "It would be more appropriate to provide more resources to the asylum officers corps." He also suggested that even though the new procedure is touted as being more efficient, in practice, it could result in more bureaucratic layers and further delays.

Sarah Ignatius, coordinator of the National Asylum Study Project of Harvard Law School, said, "We thought we had a consultative relationship with the Asylum Branch, but we were not consulted on significant aspects of the new process."

SRI LANKAN TAMIL REFUGEES IN INDIA FACE REPATRIATION

Shortly before the first shipload of 614 Sri Lankan refugees returning from India disembarked at Trincomalee harbor this past January, Tamil militants ambushed and killed 20 Sri Lankan soldiers in a village one hour to the north. That same day, another 21 people died when an explosion rocked the Sri Lankan air force base in Trincomalee's China Bay.

Despite this ominous beginning, the repatriation of Sri Lankan Tamil refugees has continued under the terms of the Indo-Sri Lankan agreement reached on January 6. When the repatriation effort began, there were more than 210,000 Sri Lankan refugees in the Indian state of Tamil Nadu, of whom 112,000 were living in some 190 camps scattered throughout 18 districts.

As of early May, 16,800 refugees had returned to Sri Lanka. Of these, 9,900 travelled from Madras to Trincomalee and 6,900 went from Rameswaram to Mannar. Although both governments insist that the repatriation is both safe and voluntary, refugee advocates say there has been good reason all along to doubt that it was safe. Now there is increasing reason to doubt that it is voluntary either.

In August 1991, several months after former Prime Minister Rajiv Gandhi was blown apart by a suicide bomber believed to be linked to the Tamil militant group, the Liberation Tigers of Tamil Eelam (LITE), the Tamil Nadu government circulated a form--in English only--seeking background information on the Sri Lankan refugees in the camps.

At the bottom of the page--below the spaces for occupation, family size, and composition, and last address in Sri Lanka--was a statement: "I declare that I wish to return to Sri Lanka with my family." On the basis of this "enumeration", Indian authorities announced that 30,000 Sri Lankan Tamils were willing to go back home.

Responding to expressions of concern from several humanitarian organizations that the registration form was in English only and seemed to provide no option to decline repatriation, the state government conducted a second enumeration in December 1991. This time, the form was distributed in English and Tamil and only 15,000 of the 112,000 camp residents said they were willing to go back to Sri Lanka.

Starting in late March, the Indian government has steadily increased pressure on the refugees to leave the country. A circular from the Rehabilitation Division of the Home Ministry orders local officials to "persuade and advise" refugees to return.

According to ProTEG (Organization for the Protection of the Tamils of Eelam from Genocide), a Tamil human rights group based in India, camp authorities have delayed dole and food rations and, in some cases, have seized refugee ration cards--to be returned only upon signed consent to repatriate. ProTEG officials told *Refugee Reports* that they have received numerous appeals from Tamil refugees in the camps, citing intimidations and threats of forced repatriation.

Tamil Nadu authorities have started regrouping refugees in the camps according to their home districts in Sri Lanka, said a ProTEG official who declined to be named. "We fear this is a sign that the government could begin large-scale returns," the official said.

For the last decade, Tiger militants have been fighting a war for a separate Tamil state in Sri Lanka's northeast. More than 700,000 people--Tamils, Sinhalese, and Muslims alike--have been internally displaced by the conflict. Both the Tigers and the Sri Lankan army have been guilty of repeated atrocities against civilians.

"We urge your government to reassert its commitment to safe and voluntary return," said Roger Winter, director of the U.S. Committee for Refugees, in a May 22 letter to India's Foreign Secretary J.N. Dixit. "If repatriation is to warrant the support of the international community, the refugees must be assured they have a clear choice--free of threats and coercion--to go home or to stay where they are."

Winter said that India should permit the UN High Commissioner for Refugees (UNHCR) to maintain a full-time presence in Tamil Nadu consistent with its mandate to safeguard the voluntary nature of repatriation.

Updates

- The Immigration and Naturalization Service (INS) sent 135 investigators and 387 Border Patrol agents to assist the Los Angeles Police Department in determining the immigration status of persons arrested in the rioting in the aftermath of the Rodney King verdict. Through May 13, a total of 763 deportable aliens were identified, of whom 745 were removed from the United States.

- The INS asylum office and the office of the General Counsel have begun training INS trial attorneys as Asylum Pre-Screening Officers (APSOs). They are being trained to identify aliens in detention with plausible asylum claims for consideration for parole into the United States and release from detention. (see *Refugee Reports*, Vol. 13, No. 4).

- A record 1.8 million persons adjusted to permanent resident status in FY 91, according to the INS. Adjustments under terms of the Immigration Reform and Control Act (IRCA) of 1986 accounted for 1.1 million. The remaining 704,000 were new immigrants or other adjustments.

- The danger encountered by relief workers in Yugoslavia's war-torn Bosnia-Hercegovina was underscored in May when a relief worker for the International Committee of the Red Cross was killed and two were wounded while delivering medical supplies into Sarajevo as part of a truck convoy. The tragic incident occurred despite warring parties' previous promises of safe passage for relief supplies.

"Agreements reached at a central level do not always add up to much on the ground," said Jose-Maria Mendiluce, a UN High Commissioner for Refugees (UNHCR) special envoy in Yugoslavia. "We are taking a risk...."

Despite the setback, at least two large UNHCR convoys carrying 650 metric tons of meats, pasta, flour, and medical supplies reached destinations in other parts of Bosnia-Hercegovina.

Some 650,000 persons have fled the violence in Bosnia-Hercegovina, and more than 1.3 million people have been driven from their homes throughout what was once Yugoslavia, according to new estimates by UNHCR. Some 531,000 persons are displaced in Croatia, 255,000 in Serbia, 253,000 in Bosnia-Hercegovina, 40,000 in Slovenia, 24,000 in Montenegro, and 3,000 in Macedonia, according to UNHCR. In addition, 230,000 have sought temporary refuge in other European nations.

- Refugee relief efforts in Iraq and Kuwait face a $36 million shortfall in the first half of 1992, according to the United Nations Office of Disaster Relief (UNDRO).

Despite a new contribution of $7.1 million from the U.S. Bureau of Refugee Programs, UNDRO has received less than 75 percent of the funds needed for food aid, refugee repatriation, agricultural assistance and UN guards, according to UN relief officials. International donors have contributed $107.3 million of the $143.1 million required for the first six months of 1992.

A Chronology of Haiti's Refugee Crisis

September 30, 1991. Coup overthrows President Jean Bertrand Aristide of Haiti.

October 2. The Organization of American States (OAS), with U.S. backing, announces a hemisphere-wide economic embargo of Haiti until it restores Aristide to the presidency.

October 4. The OAS's Inter-American Commission on Human Rights requests the United States to "suspend its policy of interdiction of Haitian nationals...until the situation has been normalized."

October 28. U.S. embassy at Port-au-Prince notes "credible reports of indiscriminate killings, police harassment, illegal searches and looting of private homes and of radio stations, arrests without warrants, and detention of persons without charges and mistreatment of persons in the custody of Haiti's de facto authorities."

October 28. A boat carrying 19 persons is interdicted by the U.S. Coast Guard, the first to be interdicted since the coup.

November 11. The UN High Commissioner for Refugees calls on the United States to "allow all of the individuals now on board [U.S. Coast Guard vessels] to be disembarked in the United States and admitted for determination of their refugee status."

Nov. 18 and 19. Two Coast Guard cutters forcibly return 538 Haitians to Port-au-Prince.

November 19. Within two hours of the second Coast Guard cutter landing in Port-au-Prince, U.S. District Judge Donald L. Graham in Miami issues a temporary restraining order preventing further forced returns of Haitians pending a hearing to determine if the plaintiffs in *Haitian Refugee Center v. Baker* have standing to file suit on behalf of the Haitians.

November 20. President George Bush comments for the first time on the issue, saying, "It is a fair policy." The policy, he said, "does make a distinction between economic refugees and political refugees. But let me assure you, it is not based on some race or double standard."

November 20. The Cuban news agency, AIN, reports that at least 16 Haitian bodies have been recovered and another 119 presumed dead after a boat with more than 200 aboard capsized in rough seas.

November 28. The decision is made to create a refugee camp for the Haitian boat people at the Guantánamo Bay Naval Base in Cuba. Within three days, the tent encampment is ready.

December 3. Judge C. Clyde Atkins of the U.S. District Court for southern Florida issues a preliminary injunction maintaining the bar to forced repatriation of Haitians and gives the Administration one week to show how it will "implement and follow procedures... to ensure that Haitians with bona fide political asylum claims are not forced to return to Haiti."

December 17, 6:00 pm. By a 2-1 vote, the Eleventh Circuit Court of Appeals overturns an injunction by Judge C. Clyde Atkins of the southern district of Florida that had prevented the United States from forcibly repatriating Haitians. The two-judge majority holds that international law provisions prohibiting the forced return of refugees are not enforceable if the refugees have not reached the United States. The dissenting judge, Judge Joseph W. Hatchett, writes that to "go out in international waters and actively prevent Haitian refugees from reaching the border...makes a sham of our international treaty obligations and domestic laws for the protection of refugees."

December 17, 10:00 pm. Judge C. Clyde Atkins issues a new temporary restraining order based on the claim that the interdiction policy violates the Administrative Procedures Act.

December 19. The Eleventh Circuit Court of Appeals overturns Judge Atkins' second restraining order. The Coast Guard repatriates 22 voluntary returnees from Guantánamo.

December 20. Judge Atkins issues a preliminary injunction based on the First Amendment rights of the Haitian Refugee Center.

January 22. Eleventh circuit hears oral arguments on consolidated appeals in the *HRC v. Baker* suit.

January 30. While the motion for a stay of the injunction is still pending before the Eleventh Circuit, the government asks the Supreme Court to lift the injunction.

January 31, 1992. By a 6-3 vote, the Supreme Court lifts the injunction, allowing forced repatriations to resume, and returns the case to be decided on the merits in the Eleventh Circuit. The court gives no reason for its decision.

February 1. The government resumes forcibly repatriating Haitians.

February 4. The Eleventh Circuit, by a 2-1 vote, orders the district court to dismiss the *HRC v. Baker* case.

February 27. The House of Representatives, by a 217-165 margin, passes a bill calling for a six-month moratorium on forced repatriations of Haitians, who, as of February 5, were aboard U.S. Coast Guard cutters or held at the U.S. naval base at Guantánamo Bay.

March 27. U.S. District Judge Sterling Johnson, Jr. of the Eastern District of New York issues a temporary restraining order blocking the U.S. government from repatriating 3,446 Haitians being held at Guantánamo Bay. The focal point of this suit, *Haitian Centers Council v. McNary*, is the right to counsel for Haitians who have been "screened-in," thereby establishing a credible fear of return, but kept in custody at the Guantánamo facility rather than allowed to pursue their asylum claims in the United States.

April 22. By a 5-4 vote, the Supreme Court lifts Judge Johnson's injunction, and returns the case to the Second Circuit Court of Appeals to be decided on the merits.

April 24. The Coast Guard resumes repatriations of Haitians from Guantánamo.

May 17. The OAS votes to step up the economic embargo on Haiti. Acknowledging that ships from Europe and Asia have freely broken the embargo, the OAS says that ships docking in Haiti will not be permitted to land in any other harbors in the hemisphere.

May 21. The Coast Guard announces it will no longer halt refugee boats unless they are in "imminent danger" of sinking or those aboard need medical help.

May 24. Bush reverses course and announces that Haitians intercepted at sea will be returned directly to Haiti without interviews or processing to determine possible refugee status. The White House advises would-be refugees to apply at the U.S. consulate in Port-au-Prince. Of the 279 Haitians who have contacted the consulate since February, nine have been admitted to the United States to pursue asylum claims, an average of two per month, according to the *Washington Post*.

May 29. Judge Johnson hears oral arguments in a new legal challenge charging that the new U.S. policy violates international and domestic law.

STATUS OF HAITIAN BOAT PEOPLE
As of May 27, 1992

Ashore at Guantánamo Naval Station	11,308
Aboard Coast Guard cutters	1,185*
Aboard U.S. Naval vessels	0
Screened and brought to U.S. (of 9,898 screened-in to date)	7,068
Screened and repatriated to Haiti	15,232
Repatriated directly Haiti	310
Medically evacuated to U.S.	11
In safehaven in Honduras	36
In safehaven in Venezuela	27
In safehaven in Suriname	60
Voluntary returnees	704**
TOTAL INTERDICTED TO DATE	**35,941**
Interdictions by U.S. Coast Guard	35,085
Interdictions by U.S. Navy/CJTF	856
TOTAL INTERDICTED TO DATE	**35,941**

** 506 enroute Port au Prince from GTMO 5/28/92*
679 pending direct repatriation
***73 from Venezuela*
214 from Honduras
417 from Guantánamo

- The U.S. Senate has approved a bill (S. 2201) granting preferential immigration status to scientists from the former Soviet Union. The "Commonwealth and Baltic Scientists Immigration and Exchange Act" now goes to the House for consideration.

The measure would ease immigration rules for "scientists or engineers who have expertise in nuclear, chemical, biological or other high technology fields or who are working on nuclear, chemical, biological, or other high-technology defense projects." The bill, limited to 750 scientists, addresses concerns that former Soviet scientists might be tempted to take their weapons expertise to Libya, Iran, Iraq, or North Korea.

- The United Kingdom, Hong Kong, and Vietnam have reached agreement on the forced return of Vietnamese who have fled to Hong Kong but who have been "screened out," i.e. have been determined not to have a well-founded fear of persecution in Vietnam. On May 12, the British embassy said that the three governments had "agreed on the repatriation of those Vietnamese illegal immigrants who have not qualified for resettlement in third countries" (Vietnamese asylum seekers who are "screened in" are guaranteed resettlement to third country).

An estimated 22,500 Vietnamese asylum seekers in Hong Kong have been screened out and therefore now face the possibility of being forcibly returned to Vietnam. Another 29,562 Vietnamese asylum seekers in Hong Kong have yet to be screened.

The British embassy statement said that the forced return would be "conducted under conditions of order, safety, and dignity."

- The "Chinese Student Protection Act," (S. 1216) passed the full Senate Judiciary Committee on May 7, 1992. The bill had previously been passed by the Subcommittee on Immigration and Refugee Affairs on April 3, 1992. (see *Refugee Reports*, Vol. XIII, No. 4).

COURT ROBINSON: not quite goodbye

After six years as a *Refugee Reports* writer and U.S. Committee for Refugees policy analyst, Court Robinson will be leaving for Thailand this month. Recipient of a John D. and Catherine T. MacArthur Foundation fellowship, Court will spend the next 18 months at the Thai-Cambodian border, monitoring the repatriation process. It is our good fortune that Court will continue his work for USCR, which will include monthly *Refugee Reports* columns from the field on conditions facing Southeast Asian refugees. Jeff Drumtra, formerly editor of the Returned Peace Corps Volunteer Magazine, will be taking on Court's legislative and appropriations reporting, as well as USCR's Africa monitoring. Hiram Ruiz will be covering U.S. resettlement activities, as well as Asia and Central/Latin America.

We are proud of Court. To say we will miss his daily presence in our office is an awful understatement. We wish him, Ang, and their daughter Yani a safe journey.

Job Board

The Lawyers Committee for Human Rights (LCHR) has two refugee-related openings:

Human Rights Coordinator LCHR seeks a coordinator for its human rights program for sub-Saharan Africa. Candidates must have an advanced degree in law or related fields, fluency in French, and considerable knowledge of Africa's political, social, and legal affairs. Position involves research, writing reports, transmitting information to government officials in the U.S. and abroad, and travel within Africa. Deadline: June 15.

Staff Attorney LCHR seeks a staff attorney to facilitate the refugee project's law reform and policy work, both in U.S. and abroad. Candidates need 2-4 years experience, public interest policy or law reform experience preferred. Deadline: June 30.

Contact Resume, letter and two writing samples to: Sandra Cole, Finance & Personnel Officer, Lawyers Committee for Human Rights, 330 Seventh Avenue--10th Floor N, New York, NY 10001.

Assistant Director The Massachusetts Immigrant & Refugee Advocacy Coalition (MIRA) is seeking an assistant director to do fundraising, organize special events, design and implement education and advocacy programs, develop contacts with other organizations, write articles for MIRA publications, and supervise staff.

Requirements: Three years experience as administrator or organizer in human service programs, knowledge of issues affecting refugees and immigrants, experience in fundraising. Bilingual/bicultural preferred.
Contact Muriel Heiberger, MIRA Coalition, 178 Tremont St., Boston, MA 02111. Deadline June 17, 1992.

Fundraiser Refugee Voices, a nonprofit organization working to raise public awareness of refugee issues, seeks a fundraiser who will identify individual and corporate donors and write grant proposals.
Contact Frank Moan, SJ, Director of Refugee Voices, 3041 4th St. N.E., Washington, D.C. 20017.

Refugee Services Director Catholic Charities Inc. in Pittsburgh, Pa. is seeking a refugees services director to work on refugee resettlement, employment, English training and mental health. Candidates should have a master's degree in social work or related field, or a bachelors degree with experience.
Contact Sister Carol Sukitz, IHM, Director of Parish Services, Catholic Charities, 307 Fourth Avenue, Pittsburgh, PA 15222. Closing date: July 15, 1992.

Conferences

- The Jewish Employment and Vocational Service's (JEVS) Refugee Assistance Program will sponsor a conference on "Refugees and Employment: Confronting the Issues," on September 16, 1992 at the International House on the University of Pennsylvania campus in Philadelphia. The conference will bring together professionals from service agencies, mutual assistance associations, and the general public to hear national experts speak on the many issues surrounding refugees in the workforce.

The day's events will include two keynote addresses, ethnic luncheon and cultural performances, and afternoon workshops led by nationally recognized facilitators.

For further information, contact Ms. Genie Cohen, Program Director, Refugee Programs at 215-854-1832.

- Several Midwestern States' Refugee Programs are co-sponsoring a Refugee Health conference on September 21-22, 1992 in Milwaukee, Wisconsin, to address the issues of funding and health-care policy as they relate to access to health care by refugee populations. For information, call Tam Phan at (608) 267-9000; Carolyn Broughton at (217)785-4357; or Carol Berg (612) 623-5693.

Resources

REFUGEE HEALTH BIBLIOGRAPHY AVAILABLE

A comprehensive bibliography on refugee health has been produced as part of a joint project of the UN High Commissioner for Refugees, the Centre for Documentation on Refugees, and the Refugee Policy Group (RPG). The book, *a Selected Bibliography on Refugee Health*, is organized according to subject area. Among the topic areas are primary health care in developing countries; feeding programs and nutrition; ethnomedicine; health services in resettlement countries; psycho-social problems; women, children, and elderly refugees; and mental health and psychiatric treatment. Also included are guidelines and manuals, listings of other bibliographies, and a separate author and subject index.

The 184-page bibliography is available for $12.90 from RPG, 1424 16th Street, NW, Washington, DC 20036. (202) 387-3015.

SUMMARY OF REFUGEE ADMISSIONS
Fiscal Year 1992

COUNTRY OF CHARGEABILITY	FY 92 REFUGEE ADMISSIONS CEILINGS	FY TOTAL ADMITTED TO U.S. AS OF MARCH
AFRICA	**6,000**	
Angola		1
Ethiopia		1,318
Liberia		167
Rwanda		1
Somalia		195
S. Africa		3
Sudan		84
Uganda		23
Zaire		74
TOTAL AFRICA	**6,000**	**1,866**
EAST ASIA (1ST ASYL)	**52,000**	
Burma		30
Cambodia		6
China (Mainland)		1
Laos		
Highland		4,093
Lowland		262
Vietnam		1,168
ODP		
Amerasian Immigrant		8,395
Refugee		10,905
TOTAL EAST ASIA	**52,000**	**24,850**
EASTERN EUROPE	**3,000**	
Albania		631
Bulgaria		81
Czechoslovakia		14
EASTERN EUROPE (cont.)		
Hungary		1
Poland		75
Romania		1,000
TOTAL E. EUROPE	**3,000**	**1,802**
SOVIET UNION	**61,000**	
Direct Departures		30,915
Non-Direct		48
TOTAL SOVIET UNION	**61,000**	**30,963**
LATIN AMERICA	**3,000**	
Cuba		1,074
Haiti		1
Nicaragua		1
TOTAL LATIN AMERICA	**3,000**	**1,076**
NEAR EAST/SOUTH ASIA	**6,000**	
Afghanistan		759
Iran		967
Iraq		619
TOTAL N. EAST/SOUTH	**6,000**	**2,345**
PRIVATE SECTOR INITIATIVE (PSI)		
PSI CUBANS		693
TOTAL PSI		**693**
TOTAL UNALLOC. RES.	**1,000**	**0**
GRAND TOTAL	**132,000**	**63,595**

REFUGEE REPORTS is published monthly for $40.00 per year for one subscription, $25.00 each for two or more subscriptions to the same addressee, or $25.00 each for ten or more subscriptions requested at the same time, mailed to separate addresses; overseas postage is an additional $24.00 for second class or an additional $75.00 for airmail; by ACNS, 95 Madison Avenue, Third Floor, New York, NY 10016. Second Class Postage paid at New York and additional mailing offices. POSTMASTER: send address changes to *Refugee Reports*, Sunbelt Fulfillment Services, P.O. Box 41094, Nashville, TN 37204.

Editorial comments and inquiries should be sent to : *Refugee Reports*, 1025 Vermont Avenue NW, Suite 920, Washington, DC 20005. All communications regarding subscriptions should be sent to: *Refugee Reports* Subscriptions, Sunbelt Fulfillment Services, P.O. Box 41536, Nashville, TN 37204. (615) 377-3322.

Basic subscription rate for 12 issues per year: $40.00; Multiple-copy rate: $25.00; Single copies of back issues: $4.00
Co-Editors: Bill Frelick and Virginia Hamilton; Staff Writers: Court Robinson, Hiram A. Ruiz, and Jeff Drumtra.
Distribution Manager: Raci Say; Production Coordinator: Koula Papanicolas
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Refugee Reports

A News Service of the U.S. Committee for
Refugees, a Project of the American
Council for Nationalities Service
Sunbelt Fulfillment Services
P.O. Box 41536
Nashville, TN 37204

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Refugee Reports

A News Service of the U.S. Committee for Refugees
1025 Vermont Avenue NW, Suite 920 Washington, DC 20005 (202) 347-3507

Volume XIII, Number 6 June 19, 1992

PREPARING THE WAY FOR REPATRIATION

Although it didn't happen as quickly as many had hoped and expected, the end of the Cold War appears finally to be resulting in the resolution of conflicts that had contributed to some of the world's longest and most intractable refugee situations, and refugees in many places are choosing to go home.

The most dramatic repatriation taking place today involves Afghan refugees who have been in exile in Iran and Pakistan for more than a decade. Although some 4,000-5,000 refugees a day are going home, this mass return is going largely unnoticed, perhaps because well over five million Afghan refugees are still living outside their homeland. Smaller in numbers, but no less significant, are the current repatriations of Salvadorans, South Africans, Cambodians, Eritreans, and Angolans.

Madame Sadako Ogata, the UN High Commissioner for Refugees (UNHCR), has declared 1992 "the year of repatriation," and has encouraged the international community to help prepare the way. In recent months, there has been a creative outpouring of studies, conferences, and on-the-ground efforts to pave the way for successful repatriations. This article will survey some of the recent initiatives on the subject.

Rene van Rooyen, the UNHCR representative to the United States, told a recent conference on the prospects for the repatriation of refugee women and children sponsored by the Women's Commission for Refugee Women and Children in Washington, D.C., that Madame Ogata has actually revised her statement to now say that 1992 should be looked upon as "the first year in a decade of repatriation." He said that massive efforts will be required to reconstruct and rehabilitate the home societies to which refugees will be returning but that the funding required to do so is "becoming increasingly scarce."

Spontaneous Versus Organized Returns By its mandate, UNHCR is engaged in organizing repatriations. And this year is seeing some of the most well-organized efforts to plan and prepare for safe and voluntary repatriation, often in the

IN THIS ISSUE:

In what has been termed "The Year of Repatriation," staff writer Bill Frelick examines the recent outpouring of ideas on how to help refugees return home safely 1

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context of broader peacemaking efforts. The best example of this is the Cambodian repatriation program (see *Refugee Reports*, Vol. XIII, No. 1).

But a warning was sounded at the Women's Commission conference. Princeton Lyman, director of the State Department's Bureau for Refugee Programs, said that the elaborate repatriation plans--"the Cadillacs"--don't get carried out. They tend to be too costly, too lengthy, too inflexible. "Circumstances don't allow for such orderly plans," he observed. Lyman cited plans for the repatriation of Ethiopian refugees from Somalia that quickly went by the wayside when civil disturbances in Somalia precipitated a flood of returnees entering drought-affected areas. He also noted that despite extensive pre-planning in Cambodia, not enough land has been made available for returnees and de-mining has not progressed fast enough.

Supporting Lyman's view on the somewhat chaotic nature of repatriation are two of the leading policy planners on the subject, Fred C. Cuny, chairman of INTERTECT, a disaster managing consulting firm, and Barry Stein, a professor of political science at Michigan State University. They argue in *Repatriation Under Conflict in Central America* (discussed below) that only a rare few of the world's refugees actually benefit from formal repatriation programs.

Although common wisdom holds that refugees voluntarily repatriate when the conditions that caused them to flee have improved, Cuny and Stein observe that "countless individual refugees and sizeable groups of well-organized refugees return home in the face of continued risk, frequently without an amnesty or a repatriation agreement or program, without the permission of the authorities in either the country of asylum or of origin, without international knowledge or assistance, and without an end to the conflict that caused the exodus."

New Field, New Challenges Robert P. DeVecchi, executive director of the International Rescue Committee, said that the role of nongovernmental organizations in organized repatriation schemes "is going to be a new field and a new challenge."

He said that no one repatriation effort would be the same as another and that "no one formula will work." DeVecchi warned, "If we treat it as business-as-usual, we will do the refugees a disservice."

DeVecchi suggested to the Women's Commission conference that preparations stress confidence-building both among the returning refugees and in the local population in the home country that will have to integrate the returnees. DeVecchi noted the irony that in many cases refugees staying in camps have enjoyed better health care, education, and nutrition than their counterparts who stayed behind, and that certain tensions are bound to arise when they return.

This observation was confirmed by former refugees who spoke at the conference. Libertina Appolus-Amathila, Minister of Local Government and Housing in Namibia, who lived for 15 years in refugee camps outside her homeland, said that nearly 100 percent of the children in the camps had been immunized, that 60 percent of the women in the camps had been educated, and that refugee women had been trained in brickmaking and other skills useful for rebuilding their country.

"When we came home," said Appolus-Amathila, "we found people in the same state where we left them. They were mentally oppressed, they had no education."

She said that hospitals had been prepared in Windhoek for the "poor refugees," but that "we had very healthy kids."

She did say that there were difficulties with adjustment, however. In the camps, no one paid for anything; housing was free; the health clinic was a short walk away and regularly visited for minor complaints. This created a lack of self-reliance upon return.

"Let the headache cool off by itself," she advised returnees who had grown accustomed to a level of health care in exile that didn't exist in the Namibia to which they had returned.

Protection During Repatriation While it has often been pointed out that voluntary repatriation is the durable solution of first choice for refugees, repatriations can be fraught with danger. Repatriations also run the risk of not being voluntary, and therefore, in violation of the principle of *non-refoulement*, the international legal norm that prohibits the return of a refugee to a place where his or her life or freedom would be threatened.

Lawyers Committee for Human Rights, Refugee Project
General Principles Relating to the Promotion of Refugee Repatriation

1. Repatriation should not be promoted unless all countries involved in the repatriations can ensure the protection and respect of the fundamental human rights of the refugees.
2. Refugees must not be returned to any country where they would face persecution.
3. Refugee repatriations must be voluntary.
4. Repatriation should be promoted only if it can be accomplished in a manner that ensures safety and dignity upon return.
5. The UNHCR should be involved in a meaningful way from the inception of the repatriation plan to its conclusion.
6. Nongovernmental organizations, in addition to the UNHCR, should have independent access to the refugees both before and after their return.
7. Any repatriation plan should establish that the conflict has abated and its attendant risks eliminated before promoting return.
8. Repatriation should be promoted only if there is no longer a likelihood of recurrence of the human rights abuses that precipitated flight.
9. Particular emphasis must be placed on the unique protection needs of returning women and children, who are a high-risk group within an already vulnerable population.
10. These principles and considerations may apply as well to unassisted repatriations.

The Lawyers Committee for Human Rights has recently published a paper to highlight ten general principles relating to the promotion of refugee repatriation (see box). To ensure the voluntariness of a repatriation, the Lawyers Committee suggests that "the decision to return must be intelligent and informed." For example, the paper notes, "return cannot be considered truly 'voluntary' if the conditions in a refugee camp are so dangerous, dire or dehumanizing that the refugee may be choosing to return to persecution as the preferable alternative."

Even if voluntary, repatriations often occur to unsettled conditions. The Lawyers Committee says that repatriations should not begin until armed conflict has ceased, and that "the risks attendant to armed conflict...have abated."

Vulnerability of Women and Children Among the principles highlighted by the Lawyers Committee, was the "unique protection needs of returning women and children."

Susan Forbes-Martin, director for policy research at the Refugee Policy Group and a co-founder of the Women's Commission, told the conference that women must be able to give "informed consent" to the decision to repatriate, despite difficulties in doing so in male-dominated societies, where the decision to return often rests with camp leadership or heads of families. One role of the international community, she suggested, is to ensure that information about conditions of return is available to women in refugee camps.

Forbes-Martin spoke of the dangers specific to the journey home, that refugees are often returning to--or across--areas that are not under full government control where marauding bandits or demobilized soldiers can prey upon returning refugees, particularly the most vulnerable among them, women and children. She noted that demobilized soldiers can be "as dislocated as the refugees" and also in need of reintegration into the home society.

She noted that unaccompanied children themselves are often recruited into military forces, where they have been traumatized not only by the abuses they have suffered but by the abusive acts they have perpetrated on others.

In addition to continuing internal disorder, and what she termed "the legacy of warfare," such as land mines. Forbes-Martin said that repatriation also frequently means the reintegration of separated families. She noted a "high potential for domestic violence" as families that have been separated for years come together again under the pressures of rebuilding their broken societies.

Among the proposals suggested by Forbes-Martin to better protect refugee women and children in the course of repatriation was the involvement of women in all phases of planning and design of programs throughout the refugee experience. She also recommended the recruitment of more female UNHCR protection officers, saying that it is difficult for women refugees to report abuses such as rape to male protection officers.

Forbes-Martin also made recommendations that were not specific to women and children. She spoke of the need for greater coordination and cooperation among refugee, development, and human rights organizations; called for more emphasis on peacekeeping efforts; higher priority for de-mining programs; more involvement of home communities in the reception of returnees; and the design of assistance programs to encourage self-reliance on the individual level while promoting democratization, rehabilitation, and reconstruction on a national level.

At the same conference, Mary Anderson, president of the Collaborative for Development Action, an agency specializing in disaster-related assistance, said that the common use of the statistic that 80 percent of refugees are women and children "is limiting." She pointed out that if 50 percent of refugees are children, then the number of adult men and women is about evenly divided. "Eighty percent hides more than it tells," she said. It would be far more useful, she suggested, to establish how many refugee children are under age five; the ratio of children to adults; the number of households headed by women; how many single men are in a given refugee population; the "disparity ratios," such as nutrition or education levels, among boys versus girls.

Anderson also suggested that emphasizing refugee needs was a limiting approach. "We are probably better off to be impressed by how they have survived," she said. "We should emphasize their capacities for rebuilding."

Finally, she said, "Don't try to plan people's lives." Anderson said that outsiders can support their capacities, but that "nobody ever 'develops' anybody else. People develop themselves."

Central American Repatriation A number of studies on repatriation emanating from a five-year International Study of Spontaneous Repatriation (ISSR), funded by the Ford Foundation, are now being published. Among them, *Repatriation Under Conflict in Central America*, edited by Cuny, Stein, and Mary Ann Larkin, examines some of the more controversial and important repatriations that have already taken place in recent years.

The book is divided into three case studies: Nicaraguan repatriation from Honduras and Costa Rica; Guatemalan repatriation from Mexico; and Salvadoran repatriation from Honduras. Larkin notes in the preface that research on Central American repatriation was considered a taboo subject during the 1980s because "there was a general fear that to discuss prospects for their repatriation was somehow to validate it as an immediate option, and this, in turn, could lead to *non*voluntary repatriation, particularly from those countries that were not happy about hosting the refugees."

Host Countries Influence Decision To Return One of the key factors to emerge in the three Central American case studies is the degree to which a threatening or unwelcoming atmosphere in the host country results in the decision of refugees to return to areas still under conflict. The case study on Nicaraguans in Honduras notes that "the insecurity pervading the camps" and "concern over their children's future" were among the factors favoring repatriation. Even in Costa Rica, where conditions were markedly better, the authors, Marvin Ortega and Pedro Acevedo, found that the Nicaraguan refugees "felt humiliated..., like second-class citizens. Costa Rican law and the general treatment they received as refugees served to remind them constantly that their future was limited to life within the camps, without the rights of Costa Rican citizens."

For Salvadoran refugees in Honduras, the refugee camps had a prison-like feel. "The refugees were denied the freedom of movement to leave the camp to work or make purchases," observed the authors, Patricia Weiss Fagen (see following story) and Joseph T. Eldridge. "Honduran authorities militarized the camp perimeters, patrolled the surrounding areas, and, at frequent intervals, harassed refugees and relief agency personnel."

Fewer Guatemalans have opted to repatriate from Mexico, where more than 43,000 remain in camps. The largest number to have repatriated, estimated by the author of the Mexico case study, Adolfo Aguilar Zinser, as more than 7,000, did so because they opposed being relocated from the border state of Chiapas to the Yucatan peninsula in the period from 1984 to 1986. Aguilar found that the repatriations from Mexico tapered off after 1986. The few who did return did so "due in part to the negative environment created in Mexico after the relocation and to improving conditions in Guatemala."

Aguilar noted that those who returned spontaneously "were completely on their own." Those who later returned under the auspices of an officially recognized repatriation program had to declare themselves as "former terrorists" and were not necessarily returned to their home communities. "Refugees who wanted to go home thus had no real incentive to use official channels for their return," Aguilar observed.

Collective (Political) Decision-making To Return Looking at Central American repatriation generally, Aguilar notes that the decision to repatriate is usually a collective one. Whether the collective decision is made democratically or imposed by camp leadership, the motivation is often to minimize risks and optimize material aid. The decision is often made after an understanding is reached with the authorities in the home country.

Aguilar points out that the collective decision can also be *not* to repatriate. He said that this was the case both with Nicaraguan *campesinos* living in the Honduran refugee camps controlled by the Contras, as well as with the Guatemalans in Mexico.

Outside political organizations often exerted a great deal of influence on the decision whether or not to repatriate, according to Aguilar. The Contras, he said, "played a decisive role in preventing refugees from returning home. Regardless of the conditions in Nicaragua or the preferences of individual refugees, the Contras viewed repatriation as contrary to its military and political interests." Similarly, the Farabundo Marti National Liberation Front (FMLN) "greatly influenced" the Salvadoran refugees in Honduras. "The Salvadoran camp leadership also tended to impose its views in an authoritarian manner," he said. "However, it had to take into account the opinions and needs of the camp residents themselves."

Afghan Repatriation In April, the Refugee Policy Group (RPG) released its report of a two-year study, *Afghanistan: Trends and Prospects for Refugee Repatriation*, on the very day that the *mujahedin* took control of Kabul.

The RPG study strikes a similar note as that of the Central America study about the influence of political groups on the decision of refugees whether or not to return.

"Most of the resistance parties opposed refugee return, claiming that an Islamic government must first reign in Kabul," said the report's author, Michael Knowles. The Pakistan-based *mujahedin* groups' disapproval of repatriation was also supported by Pakistani military and intelligence services. Roads back to Afghanistan have been blocked, and travelers turned back and subjected to violence and physical intimidation by armed groups.

Knowles observes that the decision to repatriate "is seldom made solely by the individual refugee or even by his or her family." He says that for Afghans, the group--the tribe, the clan, the extended family--or in more recent years, the political party or *mujahedin*--"defines and validates one's independence and identity."

Although Knowles estimated that as many as 300,000 refugees from Pakistan and 100,000 from Iran had returned before the fall of the Kabul regime, he noted that they represent "only a fraction of the exiled multitudes." He also predicted as "quite probable that fewer than half of the refugees in Pakistan, and even smaller numbers in Iran, will ever permanently repatriate, if peace is achieved."

Unlike the generally poor relationship of Central American refugees to their host countries, Knowles observes that "the Afghan refugees and the Pakistanis have co-existed remarkably well." Afghan refugees have had unhindered freedom of movement in Pakistan, and have come to dominate certain sectors of the Pakistani economy, such as transportation. Afghans in Iran have also been "relatively well-integrated into the local economy," and have had access to free government health care and schooling.

Refugees have had to weigh the relative stability of their lives in exile against the risks and uncertainty of returning to war-devastated areas, where effective civilian authority is often precarious, and where the ability to meet their basic survival needs is in doubt.

Afghan Women and Children In light of the Women's Commission conference, Knowles' findings on the difficulties facing Afghan women and children have a familiar--but no less compelling--ring.

He cites a United Nations Children's Fund (UNICEF) survey of Afghan women in Pakistan showing "serious obstacles" to the participation of women in the implementation of programs. Training in basic mother/child health care had only reached about 5 percent of the Afghan women, and nongovernmental organizations appeared "not adequately prepared" to upgrade skill training programs for refugee women.

Knowles points out that the traditional arrangements that supported widows and orphans (the marriage of a widow to her brother-in-law, for example) have broken down because of the large number of men who have been killed or disabled during the war. He said that widows will require special assistance to return and rebuild their homes and to be trained to support their families.

Of the millions of Afghan refugee children, Knowles found only 125,000 to have been enrolled in formal primary school programs in Pakistan. Less than one-tenth of one percent of the Afghan girls of school age were enrolled in primary schools. "Just as Afghan women will need skills to help them adjust upon return, so too, will their children," he said.

One Afghan refugee woman told the UNICEF survey team, "Our most serious problem will be overcoming the narrow-mindedness of men who want to keep the women at home."

Interview

SALVADORAN REPATRIATION: AN ON-THE-GROUND ASSESSMENT

Interview with Patricia Weiss Fagen, Chief of Mission, United Nations High Commissioner for Refugees, (UNHCR) in El Salvador.

What is the current political and social climate like in El Salvador?

It changes from one day to the next. Being in El Salvador at this point in time is like watching a moving picture. People are in the process of converting from a situation in which the only way they thought they could gain power was through shooting at each other, to political competition. They are trying to convert warring parties into political parties, and this affects everybody's behavior.

You can see the marks of war all over the country. The level of deforestation is unbelievably bad. Economically, the country is in very poor shape. Twelve years of war have left the country devastated.

There is a visible difference between the capital, which has been relatively untouched by the war, and the countryside, where town after town has nothing but demolished walls and places that are overgrown--though they won't be overgrown long because people are moving very fast to position themselves economically and to repopulate the areas that have been abandoned.

Is there a sense that the war is really over, and, if so, that the war actually resolved the issues over which it was fought?

I think that people are really convinced that the war is over--and I think that's general. There are some factions, some people, who lament the fact that the war is over. I don't come in contact with them, but I know that they exist. But there is a will to maintain the peace. The differences of opinion center on how to re-create the country--in whose image and according to whose politics and with what structures.

The peace negotiations were quintessentially balanced; both sides gave an enormous amount. They compromised on things that, a short time ago, nobody would have believed there could be compromise. But the peace negotiations didn't resolve some of the really burning issues, that were at the base of the war to begin with--most particularly, the questions of land and potential institutions. For example, the roles of the police and the military are still being debated. Both sides, together, created an entity called COPAZ, National Commission for the Consolidation of Peace, which is looking at the land, the police, and other questions, and which will verify the peace and carry on the negotiations. It consists of all the political parties and major institutional actors.

Is there a sense now of physical security in El Salvador?

Security is not very good in general, but not because there is still a war. El Salvador is a country with a lot of armed people--and a lot of poverty; and so, in general, security remains a problem.

How many refugees have already repatriated, and is UNHCR expecting that many more will return?

Repatriation began a long time before the peace was won. Individuals came back to El Salvador voluntarily and settled wherever they thought they were safe. And then people came back collectively, as communities, but settled in conflict zones and weren't really integrated into the rest of the nation at all. The returnees for the most part weren't documented; they had difficulty obtaining the basic necessities of life. They were supported by international assistance and had little interaction with civilian government authority for over 10 years. That's exactly what's changing now. Now it's one nation, and everybody is asking how this nation is going to pull itself together again. How is the government going to re-establish its institutions, and how will society incorporate the organizations that grew up in the midst of the war--particularly those that work in the returnee and displaced persons communities--that are still very strong?

From which countries have Salvadoran refugees been returning?

The majority of the repatriations from 1987 to 1990 were from Honduras. Starting after the [February 1990] Nicaraguan elections, a lot of the Salvadoran refugees who were in Nicaragua also began to come back. People have also been coming back from Costa Rica.

In the beginning, people came back knowing that they were returning to a country at war. Now, people are coming back from Nicaragua, from Costa Rica, from Panama, a few from Belize (not many), and a few from Mexico, because there is peace. So, people who left because of the war are returning because of the peace. People returning from Costa Rica and Nicaragua may return as individuals, but live together in communities; or, they come back in large groups and live individually; they come back in different forms. This will happen over the course of the next 6 months to 8 months, I should think.

The next big push for repatriation, or so we're told (though this is very preliminary), is likely to be from Mexico. There have been expressions from Salvadorans in Mexico--organizations representing Salvadorans--of a great interest in coming back. The Mexican government has tentatively agreed that UNHCR can recognize a large number of Salvadorans as refugees for the purpose of repatriation. In other words, recognize Salvadorans with broadly based refugee credentials--more-or-less conforming to the Cartagena [Declaration] standard--so that UNHCR can repatriate them and assist them upon their return. But, as I said, it's very preliminary, and we're still waiting for a survey to be taken in Mexico at the end of this month [April] and the beginning of next month [May] to see how many there are, and where they might want to go, because we don't yet have that information.

What about repatriation from the United States?

The return of Salvadorans from the United States is a subject of consternation. President Cristiani has written a letter to President Bush saying that he hopes that the United States will look sympathetically on a longer stay for the Salvadorans.

[Ed. note: Since this interview, President Bush has agreed to allow Salvadorans to remain in the United States for an additional year (see *Refugee Reports*, Vol. XIII, No. 5.)]

Do you mean an extension of Temporary Protected Status (TPS) for Salvadorans?

It is my understanding that that's what President Cristiani asked for. El Salvador would indeed have a difficult time absorbing hundreds of thousands of Salvadorans coming back all at once. It's a very poor country; it's an over-populated country. The peace is still fragile. There are still very many areas of tension, especially over land, and so the question of large-scale repatriation from the United States is understandably a source of concern for the Salvadoran government and the Salvadoran society.

How are the former refugees who have already returned to El Salvador faring?

It varies, of course. Those who returned in groups, who live in communities, were able to survive thanks to international assistance. However, survival was just about all that was possible, given where they lived--in the middle of a war zone. Now, the real test comes. Now the war is over and everybody senses that it's time to make plans for regional development, to really look at the economic prospects for the country. The government has a plan for national reconstruction, which, at this point, has the backing of all sides. But they think it's necessary to do as much as possible in as short a time as possible, because it's anticipated that this is the last year that El Salvador will have access to funding for humanitarian aid. Next year they won't be at the center of world attention anymore, and the aid may decline.

Have UNHCR and other agencies formulated any coordinated plan to assist the returnees to re-integrate?

UNHCR has never had a far-reaching assistance program. We've always given emergency assistance to people coming back, which for individual refugees has been implemented through an agency that we created called ASAI (Salvadoran Association for Integral Assistance), and for returnee communities through nongovernmental organizations (NGOs) and churches.

As the office contemplates phasing out, we're thinking about some kind of assistance program. There are many things which really need to be done. We'll never be involved in a real development effort; we do, however, work with other UN agencies in that regard. We see ourselves as something of a bridge. We're the only UN agency which, during the years of conflict, worked in the conflict zones. We have the best relations with people there; we're able to help both other UN agencies and the government itself establish or re-establish contact, and help people work together to develop useful programs. But we don't foresee implementing most of the developmental work ourselves.

How would you describe what UNHCR's role will be during the coming year with both individual and group returnees?

I think we're going to be kept busy over the next year, principally by the continuing repatriation of people from all of Central America (and whatever happens from Mexico is going to be on a larger scale than what we've seen hitherto). And, secondarily, we'll be kept busy on the work that we've been doing ever since we've been in the country, which is documentation. We're working on documentation that will affect not only returnees, but everybody who is undocumented in the zones that have been most affected. Documentation is absolutely fundamental. Until people are documented they cannot attend schools, marry, work for formal wages, receive credit, or even move around the country. The government now supports documentation efforts and it should be possible to document nearly all the undocumented. We expect to be a lead actor in that process.

Refugee Reports subscribers can receive USCR's timely new report on Haitians in the Dominican Republic free of charge. See page 15 for details.

UPDATE

- On June 11, the Senate Judiciary Committee unanimously passed the Refugee Resettlement Reform Act of 1992 (S.1941), jointly introduced by Sens. Edward M. Kennedy (D-Mass.) and Alan K. Simpson (R-Wyo.), chairman and ranking minority member, respectively, of the Senate Subcommittee on Immigration and Refugee Affairs. The bill, if enacted, would reauthorize the Refugee Act for three years, and introduce a number of changes in the domestic refugee resettlement program. Among the highlights of the bill:

    - Individual State Department consular officers could be designated to make refugee status determinations abroad for admission to the United States under the refugee resettlement program in places where Immigration and Naturalization Service (INS) officers--who under current practice have exclusive authority to make refugee status determinations--do not have immediate access to the individual under consideration.
    - The U.S. Coordinator for Refugee Affairs, together with the Secretaries of the Departments of Health and Human Services (HHS) and State, would be required to consult annually with states, localities, private voluntary agencies (volags), mutual assistance associations (MAAs), and others to review the refugee program and develop two-year plans for admission and resettlement policies.
    - Cash and medical assistance would be available to refugees "to the maximum extent practicable" for no less than 12 months and no more than 36 months.
    - A matching grant program would be given statutory authority.
    - Targeted assistance grants would be limited only to resettled refugees or persons granted asylum (removing Cuban/Haitian "Entrants").
    - The director of the Office of Refugee Resettlement in HHS would be authorized to make grants or enter into contracts with nonprofit agencies to provide income support, case management, and other services to refugees during their first 12 months in the United States. Refugees involved in such programs would not be eligible for cash and medical assistance.
    - States would be given "a significant role" in assuring that nonprofit agencies provide the contracted services in cases where refugees are to receive those services in lieu of cash assistance.
    - States would have greater flexibility in the use of social service funds (currently 85 percent of funds must be used for programs oriented specifically toward rapid early self-sufficiency in states with welfare dependency rates over 55 percent).

On the House side, Rep. Romano L. Mazzoli (D-Ky.), chairman of the Subcommittee on International Law, Immigration, and Refugees, introduced a bill on June 11 (H.R. 5383) that would reauthorize the appropriations for refugee assistance for the next three years. The Mazzoli bill carries no other provisions. If Mazzoli's bill passes the House and the Kennedy/Simpson bill does the same in the Senate, a conference committee drawn from both sides would be convened to reconcile the language of the two.

- On June 9, a federal court in Los Angeles approved a settlement of the class action suit, *Lopez v. INS*, under which the Immigration and Naturalization Service (INS) has agreed to advise persons arrested by the INS without warrant of their right to speak with an attorney, make a phone call to contact counsel, request a list of free or low-cost legal services, opt for a hearing before an immigration judge, obtain release from detention on bond, and communicate with diplomatic officers from their home countries.

A revised Notice of Rights form will include this information, and is expected to be distributed to about 1.5 million persons arrested by the INS yearly.

Peter Schey, executive director of the Center for Human Rights and Constitutional Law, and lead counsel in the case, said, "The settlement will protect the constitutional right to consult with counsel, a critically important right to people arrested by the INS who are generally unfamiliar with this country's complex immigration laws."

- On June 5, Germany's lower house of Parliament passed an asylum bill aimed at speeding up the procedure and detaining asylum applicants. The bill is expected to pass the upper house and become effective by July 1.

The bill transfers responsibility for adjudicating asylum claims and issuing expulsion orders from the states to a federal office. For their parts, the states have agreed to double the available space in large refugee camps so that up to 50,000 could be held.

The bill is intended to streamline the procedure so that "manifestly unfounded" cases would be decided within six weeks and most cases within three months. Applicants would remain in the camps until a decision was rendered.

The President of the German Federation of Judges of Administrative Courts has objected to a provision of the bill that would hold hearings in or near the camps, presided over by a single judge. He said that hearings should be held in courts to ensure the impartiality of the proceedings.

- Site 2, the Cambodian camp in Thailand holding more than 200,000 refugees, was surrounded by Thai troops following an outbreak of violence, the *Washington Times* reported on June 5. According to the report, several thousand camp residents seized control of the camp, attacked the camp leaders, and forced foreign personnel to leave. At least 10 injuries were reported. The camp is controlled by the U.S.-backed Khmer Peoples National Liberation Front.

- The State Department has taken another step to phase out the Afghan refugee resettlement program by no longer allowing Afghans who had registered as P-5 or P-6 priorities to "up-grade" their priority standing. Although the United States has only been processing Afghan refugees in P-1 through P-4, Afghans who had registered for the refugee resettlement program without close family ties to U.S. residents, had been able to up-grade their priority standing if they subsequently developed a family relationship. As of June 1, Afghan relatives will not be upgraded and processed as refugees, but rather will have to apply for family reunification through normal immigration procedures.

- The State Department has agreed to accept up to 150 Cubans in Peru as funded refugee admissions who previously had been accepted for privately funded admission under the Private Sector Initiative (PSI).

- Ambassador Warren Zimmermann, U.S. Ambassador to Yugoslavia, has been named the new director of the State Department's Bureau for Refugee Programs. He previously served as deputy chief of mission in Moscow and chairman of the U.S. delegation to the Vienna CSCE follow-up meeting. He has served as Ambassador to Yugoslavia since 1988.

The current BRP director, Princeton Lyman, has been named Ambassador to South Africa.

- Tensions have risen again among Haitian detainees at the Krome Avenue detention center outside Miami, according to a June 5 report in the *Washington Post.* On May 28, a 22-year-old Haitian detainee collapsed and died. Haitian detainees began to protest what they alleged was a slow response to the man's condition. In addition, they claimed to be taunted by the guards, who allegedly said, "You are all HIV positive anyway."

Affidavits collected by the Haitian Refugee Center say that at least two Haitians were "badly beaten" after a fire broke out at the facility. The affidavits assert that male detainees were ordered to strip "and told to jump up and down."

Richard Smith, the INS district director, called the charges "outlandish allegations that have no basis in fact."

- On May 8, the INS Administrative Appeals Unit approved a waiver of exclusion to a Laotian refugee who tested seropositive for HIV. The man, together with his wife and son, had waited for two and half years in a refugee camp in Thailand pending an approval of the waiver.

Following a storm of controversy, the Department of Health and Human Services (HHS) has yet to give final approval to a January 1991 proposed revision of the list of diseases that exclude persons from entering the United States. The proposed revision removed all diseases from the list, including HIV, except for infectious tuberculosis (see *Refugee Reports*, Vol. XI, Nos. 7 and 9; Vol. XII, Nos. 1, 5, and 8). "HHS has yet to act on the proposed revision and persons such as this refugee family will be forced to continue to overcome these bureaucratic hurdles and these unconscionable delays to reunite with their families," said Ignatius Bau, of the San Francisco Lawyers' Committee for Urban Affairs, the attorney representing the Laotian refugee.

This is the third known waiver of an HIV-positive refugee. Another Laotian and a Zairian have also been granted HIV waivers. The Laotian refugee family is expected to resettle shortly in California.

- The INS issued a memorandum on May 28 delineating the documentary requirements for a "complete" asylum application. Required documents include the I-589 request for asylum (in quadruplicate), the bio-data form F-325A, the fingerprint card, two photos, evidence of relationship with family members included in the application, and four copies of additional supporting materials. Any documents submitted in a foreign language must be accompanied with a translation into English as well as a certification that the translator is competent to translate. The request for employment authorization, form I-765, can be submitted at the same time.

Although the memorandum states that since guidelines on incomplete applications will be issued at a later date, "until such guidelines are issued, do not return an application because it appears to be substantially incomplete," the same memo (three sentences later) says, "Applications which are lacking the necessary documents must be returned as incomplete."

While the memo itself appears to be contradictory, the goal of the INS is to return incomplete asylum applications as one of the means of expediting the procedure (see *Refugee Reports*, Vol. XIII, No. 5).

- On May 28, a federal judge ruled that resident aliens are entitled to the same First Amendment rights as U.S. citizens. The case involves a Palestinian, Fouad Yacoub Rafeedie, who was accused by the INS of being a supporter of a terrorist organization, the Popular Front for the Liberation of Palestine, and therefore excludable under the Immigration and Nationality Act. Rafeedie denies membership in the organization.

"Although the government plainly may have a legitimate interest in regulating subversive conduct," wrote U.S. District Judge Joyce Hens Green, "it cannot broadly prohibit teaching or advocating unpopular tenets, or associating with an organization that teaches or advocates such doctrines."

Recent Developments

CONGRESS, COURTS REACT TO PRESIDENTIAL ORDER TURNING BACK HAITIAN BOAT PEOPLE

The saga of the Haitian boat people has entered a new chapter with President Bush's Executive Order of May 24 authorizing the return, without screening for refugee status, of Haitian boat people interdicted by the U.S. Coast Guard and the announcement of the government's intention to close down the tent city at the Guantánamo Bay naval base.

The order gave rise to a new law suit, *Haitian Centers Council (HCC) v. McNary*, from the same legal team that is already suing the Immigration and Naturalization Service (INS) over the right to legal counsel for screened in Haitians at Guantánamo. (On June 10, responding to the first *HCC v. McNary* suit, the Second Circuit Court of Appeals granted attorneys for the HCC access to screened-in Haitians at Guantánamo who are being given second interviews.) The new suit challenges the May 24 policy as a violation of Article 33 of the UN Refugee Convention and Protocol, which forbids the "return [of] a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened." (It also challenges the Executive Order as a violation of the treaty with Haiti allowing the United States to interdict their boats, but which stated that the U.S. "does not intend to return" refugees to Haiti, and as a violation of Section 243(h) of the Immigration and Nationality Act.)

On June 5, U.S. District Judge Sterling Johnson, Jr. of Brooklyn, N.Y. denied the Haitian Centers Council a preliminary injunction that would have prevented the government from continuing the policy. Judge Johnson said that in order to grant an injunction he would have to find both 1) that the Haitians would suffer irreparable harm if the injunction was not granted and 2) that they would likely succeed on the merits when the underlying legal question is decided. He decided that although the HCC "undeniably makes a substantial showing of irreparable harm," their case was nevertheless "unlikely to succeed on the merits."

Although Johnson agreed that "on its face, Article 33 imposes a mandatory duty upon contracting states such as the United States not to return refugees to countries in which they face political persecution," he found that the "controlling precedent" in the Second Circuit is a case, *Bertrand v. Sava*, "which indicates that the Protocol's provisions are not self-executing." This means that unless and until Congress implements the Protocol's provisions in domestic law, the Protocol itself cannot be interpreted as a source of rights.

Clearly, Johnson was uncomfortable with his ruling. "It is unconscionable," he wrote, "that the United States should accede to the Protocol and later claim not to be bound by it. This court is astonished that the United States would return Haitians to the jaws of political persecution, terror, death and uncertainty when it was contracted not to do so."

Judge Johnson called the government's conduct "particularly hypocritical" since it had condemned other countries who had failed to abide by Article 33, such as Great Britain for its forcible repatriation of Vietnamese boat people whom it classifies as economic migrants.

"As it stands now," the judge wrote, "Article 33 is a cruel hoax and not worth the paper it is printed on unless Congress enacts legislation implementing its provisions or a higher court reconsiders *Bertrand*."

The HCC legal team filed an expedited appeal to the Second Circuit, which should be argued the last week of June. The plaintiffs contend that section 243(h) of the INA reaffirms the self-executing obligation of Article 33 by mandating that "the Attorney General shall not deport *or return* any alien...to a country if the Attorney General determines that such alien's life or freedom would be threatened." (emphasis added)

On the other hand, the government argues--and Judge Johnson agreed--that section 243(h) is "unavailable as a source of relief for Haitian aliens in international waters."

Legislation Introduced Following Judge Johnson's signal, members of Congress worked quickly to respond to the new policy. Rep. Stephen J. Solarz (D-N.Y.) introduced a bill (H.R. 5360) that "reaffirms" that Article 33 applies to individuals outside the United States and that the U.S. government "shall not return, cause to be returned, or affect the movement in any manner which results in returning, a national or habitual resident of a country, who is outside the United States, to the territorial boundaries of the country...unless the United States Government has determined that that individual is not a refugee."

In a House hearing on the legislation on June 11, Solarz said that although the bill does not spell out the refugee determination process, "it would have to meet basic standards of due process that would give the claimant a fair opportunity to make his or her claim." He suggested that it conform to the determination procedures used by INS asylum officers in the United States.

A similar bill (S. 2826) was introduced on June 9 in the Senate by Sens. Edward M. Kennedy (D-Mass.) and Mark O. Hatfield (R-Ore.).

A different bill (H.R. 5267) was introduced in the House on May 27 by Rep. John Conyers (D-Mich.) that, among other things, would grant temporary protected status to Haitians until democratic government is restored in Haiti, terminate the migrant interdiction agreement with Haiti, and establish expanded processing facilities for Haitians seeking refuge.

Solarz Blasts Administration Policy on Haitians At a June 11 hearing before the House Subcommittees on International Operations and Western Hemispheric Affairs, Solarz said, "In the almost two decades that I've been privileged to serve in this House I cannot recall another foreign policy decision which I consider to be more disgraceful or dishonorable in terms of the fundamental values upon which this country was founded." Solarz branded the May 24 policy as "an exercise in diplomatic hypocrisy and moral insensitivity."

Solarz, who chairs the Subcommittee on Asian and Pacific Affairs, recounted the history of U.S. involvement in maintaining the principle of first asylum in Asia with respect to Vietnamese boat people. "I have no brief with the communist tyranny in Vietnam," said Solarz, "but I will tell you this, if you run afoul of the authorities in Vietnam, maybe you get put in a re-education camp.... You rarely get exterminated. As far as I know, they do not practice torture as a matter of routine. Yet, in the case of Haiti, we know that opponents of the regime are routinely tortured, they are tyrannized, and, in many cases, they are murdered."

Solarz commented on the damage he said this policy will do for refugee protection in Asia and elsewhere for years to come. "I pity the poor American diplomat who in the future is asked to go to the British or the Bangladeshis or the Malaysians or the Thais and say, 'Respect the principle of first asylum.' There will be peals of laughter in the room. They will say, 'Who are you kidding. You guys don't respect the principle yourself. Why should we.' We are forfeiting our moral leadership here. And we are compromising our capacity to come to the defense of refugees all over the world."

Retribution upon Return "If they weren't political refugees when they left Haiti, they surely become political refugees when they return," said Rep. James L. Oberstar (D-Minn.), "because then the army knows, the police know, for sure, who it was who voted for Father Aristide." Oberstar, who lived in Haiti for three and half years and who speaks Creole, said, "I know how people can disappear at the blink of an eye. A simple word can mean disappearance.... To send these people back marks them for destruction."

Ambassador Brunson McKinley, U.S. Ambassador to Haiti from 1986 to 1989, and now deputy assistant Secretary for the Bureau for Refugee Programs in the Department of State, testified on behalf of the Administration. He said that the Administration had monitored at least 2,000 returnees, and had found "no instance of reprisals against returnees."

Under questioning about the monitoring, McKinley acknowledged that "it is not an easy country in which to work," and also that the UN High Commissioner for Refugees (UNHCR) "essentially is not monitoring," but said that U.S. embassy monitoring effort was "very intensive, sincere, energetic."

Prof. Harold Hongju Koh of Yale University, who filed the *HCC v. McNary* suits, described for the House panel the fate of some of the plaintiffs in the case who were forcibly returned to Haiti. One of the named plaintiffs in the suit, whom Koh called by the pseudonym "M. Bertrand", was a political activist and supporter of Aristide whose closest relatives were killed by the Haitian military. He was "screened in" at Guantánamo as having a credible asylum claim. Although originally assured that all "screened in" Haitians would be brought to the United States to pursue their asylum claims, Bertrand was not allowed to the United States where he would have had assistance of legal counsel in his asylum hearing.

Following the Supreme Court's denial of the injunction in the *HCC v. McNary* suit on the right to counsel (see *Refugee Reports*, Vol. XIII, No. 4), Bertrand was not allowed to speak to his lawyer again, and, according to Koh, returned to Haiti "precisely because" he had refused to be rescreened without his lawyer present.

Bertrand was forced off the Coast Guard cutter onto Port-au-Prince with a fire hose, where he was fingerprinted and identified by the Haitian military authorities. "Within 48 hours of his forced return," Koh testified, "he was beaten savagely by three Haitian military officers, and his left arm was severely fractured." Koh said that Bertrand is currently in hiding and in fear for his life. He said that Bertrand would flee Haiti for the United States or elsewhere, except for the new automatic forced repatriation policy.

In-Country Refugee Processing Ambassador McKinley told the House panel that 1,582 persons had applied for refugee status at the U.S. embassy in Port-au-Prince between February when such processing began and June 10 (see box, p. 16).

"It is a substantial, a real program," he said. "The embassy has been processing refugee applications since February with no interference from the Haitian authorities."

Under questioning by Rep. Robert G. Torricelli, chairman of the Western Hemisphere Affairs Subcommittee, who expressed concern about the safety of persons waiting for their claims to be acted upon, McKinley said that those who have applied for refugee status determination at the embassy "are not under the protective custody of the United States" while they are waiting for the refugee status determination to take place. But, McKinley said, "No one has said, 'I am in immediate danger of my life. You have to protect me.'"

McKinley said that embassy consular officers had presented 213 cases to the INS for refugee determination interviews. So far, of the cases decided by the INS in Port-au-Prince, 115 have been rejected and 45 approved. Of the 45 approved, only 12 have actually departed for the United States. McKinley characterized the processing as "a little sluggish."

Rep. Solarz called the use of in-country processing to justify the summary return of boat people as "a ludicrous argument." He said, "In the Soviet Union, Cuba, Vietnam, and Romania, in-country processing has been an alternative option for those with the inclination, courage, and gumption to use it. But it has never been the exclusive option, and it is clear that making it the exclusive option does not conform to international law."

Solarz charged that "there is widespread lack of awareness of the existence of any program at the U.S. Consulate and widespread fears among Haitians that they would be identified by the government forces they are trying to escape if they were to request help."

Prof. Koh said it would be "suicide" for a man like "Bertrand" to attempt the in-country processing option. "To pursue this option," he said, "the asylee would have to leave hiding, pass numerous security road blocks, enter the heavily militarized capital city of Port-au-Prince, travel to areas surrounding the U.S. Consulate and Embassy that are especially dangerous given the high concentration of security forces, present and identify himself as an asylum seeker to the Haitian security forces before entering, subject himself to their scrutiny, engage in highly adversarial proceedings with U.S. immigration officials, then repeat the entire process several times before receiving a final determination on his asylum request."

Administration Policy: "Turning Off the Magnet" McKinley said, "This has been for the Administration an extremely difficult policy decision, a real dilemma." The decisions "were not lightly taken by the President and his senior advisors," he said, and noted that "a vigorous debate went on inside the executive branch of the government."

The main thrust of McKinley's argument was what he called "the magnet effect." He said that the presence of Coast Guard cutters off shore had become a magnet "causing more and more Haitians to take to the boats." He said that the third wave of Haitian boat people in April and May "overwhelmed our ability...to cope" and "compelled us to take the drastic position of returning people directly to Haiti."

He said that the magnet effect "went well beyond political refugees." While acknowledging that "there were legitimate political refugees," and others with "political coloration in their motivation for departure," he said, "the magnet effect certainly operated on people who were not suffering any form of political oppression," people he termed "economic migrants."

McKinley assured the Congressional panel that "the difficult, painful decision that we were forced to take in the instance of the Haitian boat people should not be taken by any group in this country or overseas as a diminution of our commitment to leadership in refugee policy, which will remain intact." He said, "We will continue to urge people to allow first asylum. And we will continue to give lots of money and lots of help in those situations." He mentioned recent U.S. work to preserve first asylum in Bangladesh for Rohingya refugees from Burma, but added, "There are significant differences between the problem that has confronted us in Haiti...and more traditional refugee situations."

Rep. Howard Berman, chairman of the International Operations Subcommittee, said, "When we talk about it as 'the magnet effect,' we pre-decide the question. Magnets are the lure of a better life in America. That assumes economic motivations. I don't know the good term to use--the electric prod--for what is pushing people out of Haiti."

Resources

"OPEN HOSTILITY" TOWARD HAITIAN REFUGEES IN THE DOMINICAN REPUBLIC

Haitian refugees fleeing violence and repression encounter open hostility, abuse, and arrest when they cross the border into the Dominican Republic, according to a new "Issue Paper" by the U.S. Committee for Refugees (USCR).

The USCR study, *Stone of Refuge: Haitian Refugees in the Dominican Republic*, finds that some Haitian refugees have been summarily repatriated by the Dominican Army, and have subsequently been arrested by the Haitian military. Other Haitians have been arrested in the Dominican Republic and threatened with forced return. The Dominican Republic has pointedly refused to establish border camps for Haitian refugees and has failed to provide a screening system to evaluate Haitians' claims for asylum.

"The denial of the fundamental principle of first asylum on the part of the United States...sends a message to the DR...that it is permissible to return [Haitian refugees] to conditions of danger, and possibly death," points out the 23-page study, based on site visits to the Haiti-DR border by USCR consultant Robin Kirk. (The first report on the USCR mission to the Dominican Republic appeared in *Refugee Reports*, Vol. XIII, No. 3)

An estimated 7,000 Haitian sugar cane cutters were forcibly repatriated by DR officials last year. An additional 25,000-50,000 Haitians were coerced to "volunteer" to return to Haiti.

The study calls on the Dominican Republic to grant refugee status to qualified Haitians, and recommends that the international community "visibly monitor against forced repatriation of the large number of Haitians already residing in the DR." The study urges the United Nations High Commissioner for Refugees to station a protection officer and additional personnel in the DR.

Stone of Refuge: Haitian Refugees in the Dominican Republic is available free of charge upon request to subscribers of *Refugee Reports*; the cost is for $4 to non-subscribers. To obtain a copy, write: U.S. Committee for Refugees, 1025 Vermont Avenue N.W., Suite 920, Washington, D.C. 20005. Please indicate whether you are a *Refugee Reports* subscriber.

THIS PROMISED LAND, EL SALVADOR

Through words and photographs, *This Promised Land, El Salvador* traces the flight of Salvadoran refugees, their life in exile, and, notably, their recent return home.

Based on the authors' visits to Salvadoran refugees in the Colomoncagua refugee camp in Honduras and later to one of the villages to which they returned in El Salvador, this book tells the refugees' story from their perspective. The authors praise the refugees' resilience, saying, "They came to Colomoncagua frightened and miserable, all touched intimately by violence and destruction.... During their nine years of exile...they developed a well-functioning and democratic internal government, establishing a communal lifestyle in which all had equal rights to resources and no one lived better than anyone else."

"For years... [the refugees] resisted pressure from the Honduran government and military and UNHCR to... repatriate," the book says. However, "In the spring of 1989, the community's position changed.... 'We can't be spectators any longer; we have to go back and be actors,' explained one [refugee] camp leader.'"

This Promised Land, El Salvador is available for $24.95 at bookstores or from Rutgers University Press, 109 Church Street, New Brunswick, NJ 08901. (800) 446-9323.

HAITI: IN-COUNTRY REFUGEE PROCESSING PROGRAM
STATUS FROM FEBRUARY THROUGH JUNE 10, 1992

CONSULATE PRE-SCREENING
(includes 166 from among those returned directly to Port-au-Prince by U.S. Coast Guard

Pending pre-screening	1237
Referred to INS	213
Screened-out	131
Application withdrawn	1
Total Applications Received	**1,582**

INS ADJUDICATION

Pending INS interview		27
Approved		45
Departed for U.S.	12	
Pending departure	33	
Rejected		115
Deferred		26
Total Referred to INS		**213**

Source: *State Department, Bureau for Refugee Programs.*

REFUGEE REPORTS is published monthly for $40.00 per year for one subscription, $25.00 each for two or more subscriptions to the same addressee, or $25.00 each for ten or more subscriptions requested at the same time, mailed to separate addresses; overseas postage is an additional $24.00 for second class or an additional $75.00 for airmail; by ACNS, 95 Madison Avenue, Third Floor, New York, NY 10016. Second Class Postage paid at New York and additional mailing offices. POSTMASTER: send address changes to *Refugee Reports*, Sunbelt Fulfillment Services, P.O. Box 41094, Nashville, TN 37204.

Editorial comments and inquiries should be sent to : *Refugee Reports*, 1025 Vermont Avenue NW, Suite 920, Washington, DC 20005. All communications regarding subscriptions should be sent to: *Refugee Reports* Subscriptions, Sunbelt Fulfillment Services, P.O. Box 41536, Nashville, TN 37204. (615) 377-3322.

Basic subscription rate for 12 issues per year: $40.00; Multiple-copy rate: $25.00; Single copies of back issues: $4.00
Co-Editors: Bill Frelick and Virginia Hamilton; Staff Writers: Court Robinson, Hiram A. Ruiz, and Jeff Drumtra.
Distribution Manager: Raci Say; Production Coordinator: Koula Papanicolas
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Refugee Reports

A News Service of the U.S. Committee for Refugees, a Project of the American Council for Nationalities Service
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Refugee Reports

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1025 Vermont Avenue NW, Suite 920 Washington, DC 20005 (202) 347-3507

Volume XIII, Number 7 **July 31, 1992**

DESPITE PLANNED BUDGET CUTS, 132,000 FY 93 REFUGEE ADMISSIONS PROPOSED

The Bush Administration proposed a ceiling of 132,000 refugee admissions for FY 93 and encountered persistent congressional criticisms about inadequate federal funding for refugee resettlement during consultation hearings between the Administration and Congress in July.

This year's consultation hearings were conducted two months earlier than normal to help Congress link its deliberations on refugee resettlement appropriations to actual admissions levels.

The consultations, conducted July 23 in the Senate Subcommittee on Immigration and Refugee Affairs, and on July 30 in the House Subcommittee on International Law, Immigration, and Refugees, produced repeated expressions of congressional concern over the deteriorating refugee situation in the former Yugoslavia, recriminations over U.S. treatment of Haitian refugees, and a continuation of previous years' charges that the federal government has shifted an unfair burden of resettlement funding to the states.

The FY 93 ceiling of 132,000 refugee admissions includes 122,000 publicly funded admissions and 10,000 privately funded, compared to 142,000 admissions (including 10,000 privately funded) currently allowed in FY 92.

Administration officials predict that actual admissions in FY 92 will be 131,200. The shortfall of 10,800 admissions this year is primarily due to 8,500 privately funded admissions not being used and 1,000 unused admission slots from the former Soviet Union.

The 122,000 publicly funded admission slots proposed by the Administration for FY 93 include 50,000 for the former Soviet Union, 52,000 for East Asia, 7,000 for the Near East and South Asia, 7,000 for Africa, 3,500 for Latin America and the Caribbean, 1,500 for Eastern Europe, and an unallocated reserve of 1,000 slots for "the most needy regions during the course of FY 93." (See table on page 16.)

Resettlement Budget Insufficient for Admissions Levels, Members of Congress Say The Administration has proposed FY 93 funding of $207.9 million to bring refugees to

IN THIS ISSUE:

Annual consultations on FY 93 refugee admissions were held in both the House and Senate in July. Jeff Drumtra reports on wide-ranging discussions of overseas refugee needs and U.S. domestic resettlement options 1

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the United States as part of the State Department's Migration and Refugee Assistance (MRA) budget (compared to $208.9 million in FY 92), plus $227 million for domestic refugee resettlement in the Department of Health and Human Services' Office of Refugee Resettlement (ORR) budget (compared to $410 million in FY 92 and $321.2 million recently appropriated by the House--see Recent Developments).

The Administration's proposed funding level for domestic refugee resettlement, without commensurate reductions in refugee admissions, "is totally unfair to the states and local governments," Sen. Alan Simpson (R-Wyo.) charged during the Senate hearing. "The states are beginning to howl, because they absorb this drastic reduction in federal funding.

"If the Administration truly believes that there are 122,000 persons with a well-founded fear of political persecution, in whom the U.S. has a 'special humanitarian concern,' and if the Administration believes that it is in the national interest to resettle them next year in the United States of America, then you should budget for it," Simpson said.

Several witnesses voiced similar criticisms. Federal funding cuts will have "devastating consequences" and "would exacerbate problems cities already face in providing needed services to refugees," warned James Scheibel, mayor of St. Paul, Minn., who testified at the House hearing on behalf of the U.S. Conference of Mayors.

Scheibel warned that shifting the financial burden for resettlement to local taxpayers will "add to anti-immigrant sentiments in our communities. We can expect to see in our cities' streets growing conflicts among refugees and other groups."

Resettlement agencies are "extremely concerned" over the Administration's proposed budget, according to testimony at the House hearing by InterAction, a coalition of agencies, many of which are involved in resettlement. The Administration budget "is insufficient" and "will seriously strain the resources of both private and public sector organizations," InterAction said.

Sen. Simpson suggested a moratorium on the admission of refugees who are not in "dire straits," in order to bring total admissions in line with federal funding. "As far as I can tell, these are not people fleeing for their lives nor their safety.... I'm sure that a great many of them could safely wait another year for admission," he said.

U.S. Coordinator for Refugee Affairs Jewel Lafontant-Mankarious insisted that "the recommended level of admissions is carefully crafted to help meet refugee needs in a manner consistent with the United States' tradition of leadership...in a time of fiscal austerity."

Deputy Secretary of State Lawrence Eagleburger noted that Congress has put "legislative demands" on the State Department to grant admission to more refugees from certain countries, a reference to the so-called Lautenberg amendment, which creates a relaxed standard for refugee admission for certain religious minority groups in the former Soviet Union and Southeast Asia (see Updates).

Sen. Edward M. Kennedy (D-Mass.) emphasized that the Administration's use of the term 'funded admissions' is "a lot different from...five years ago, when we were talking about two years of resettlement support" for each refugee admitted to the United States, compared to eight months of federal support currently afforded to refugees. "Since they don't get the kind of support they need, a lot of them end up slipping onto the welfare rolls," Kennedy said.

Africa Admissions Increase to 7,000

The Administration proposed 7,000 refugee admissions slots for Africa during FY 93, an increase of 1,000 over the FY 92 ceiling and 2,900 more than the FY 91 allotment.

Administration officials said they expect next year's admissions will include 4,000 Ethiopians (compared to 3,200 this year), 500 Liberians (compared to 700 this year), and an unspecified number of Somalis, Sudanese, and other nationalities.

The State Department removed Ugandans, Angolans, and South Africans from the list of designated nationalities of particular humanitarian concern for FY 93. Ethiopians, Liberians, Mozambicans, Somalis, Sudanese, and Zairians remain on the list of designated nationalities. Ethiopian applications, however, must be dated before Nov. 21, 1991.

Sen. Paul Simon (D-Ill.) expressed concern that the Immigration and Naturalization Service (INS) bases only two interviewers in Africa. "My hope is that we can be more sensitive to the African situation, and I've yet to see that," Simon said.

Sen. Simpson noted warnings that resettlement of African refugees to the United States contributes to a brain drain in Africa. "The complaint was that many of the persons interested in applying for refugee status in the U.S. were the better educated, who are so very badly needed in Africa. I think that's a very serious issue," Simpson said.

The quota of 7,000 admissions from Africa next year is significantly less than the 10,000 admission slots recommended by InterAction, which recommended spaces for 3,400 Ethiopians, 2,000 Liberians, and "at least 3,250 Somalis."

"African refugees are getting short shrift," John Fredriksson, a representative of Lutheran Immigration and Refugee Service, told the House Refugee Subcommittee. "African refugees continue to receive low priority" in the U.S. resettlement program due to "tinges of racism," he charged.

Status Quo in East Asia The 52,000 refugee admissions from East Asia next year, according to the Administration proposal, would include up to 40,000 via the Orderly Departure Program (ODP) from Vietnam, plus 12,000 first asylum admissions. These totals are almost identical to FY 92 levels.

"More than half of the first asylum admissions...will be Highland Lao, and most others will be Vietnamese," said Lafontant-Mankarious.

The 40,000 ODP admissions include 16,000 Amerasian immigrants who are counted as refugees in U.S. refugee budgets. The Amerasian program, which has resettled more than 71,000 Amerasian immigrants and their families in the U.S. since 1988, will complete its interview caseload in mid-1993 and will complete its resettlement work by mid-1994, Lafontant-Mankarious said.

That timetable is none too soon for Simpson and other critics on Capitol Hill. Simpson accused the Amerasian program of "widespread fraud," citing one study's conclusions that two-thirds of Amerasian family members are unrelated to the Amerasian child. INS Commissioner Gene McNary responded that "we are making every effort to weed out" abuses and noted that INS denies 80 percent of Amerasian applications.

The ODP admissions also include slots for Vietnamese who were previously detained in Vietnam's reeducation centers because of their association with the United States or the former South Vietnamese government. The United States plans to grant admission to about 22,000 former detainees and their family members in FY 93, compared to 21,000 in the current year.

The region's total allotment of 52,000 admissions is less than the 59,500 slots recommended by InterAction resettlement agencies. InterAction urged U.S. officials to give more attention to Tibetan and Burmese refugees.

More Iraqis Will Be Resettled from Near East/ South Asia Proposed resettlement slots for the Near East and South Asia regions will increase by 1,000 next year--to 7,000 admissions--due to State Department plans to double the number of Iraqi admissions.

Some 4,000 Iraqi refugees will be resettled in the United States next year, including 1,000 Kurds and 3,000 non-Kurds. Iranian admissions will remain at 2,000. The allotment for Afghans will be 1,000, a reduction of 500 compared to FY 92.

The enlarged quota for Iraqi refugee admissions stems in part from warnings by the United Nations High Commissioner for Refugees (UNHCR) that certain groups of Iraqis risk forced repatriation unless they are resettled.

"We are receiving horror stories about the plight of 30,000 [Iraqi] refugees in desperate circumstances in Saudi Arabia--reports about refugees being tortured...and being forced back into Iraq," Kennedy said. State Department officials agreed with Kennedy's assertion but said the abuses were attributable to undisciplined troops, not Saudi government policy. "We have agreed to accept for interview 1,500 Iraqis in Turkey...and 1,000 Iraqis in camps in Saudi Arabia [in FY 92]," Lafontant-Mankarious said.

The State Department will continue to designate Iranians, Afghans, and Iraqis as nationali-

HEARING PARTICIPANTS FOCUS ON PROPOSED CHANGES IN DOMESTIC REFUGEE RESETTLEMENT PROGRAM

At the House consultation hearings this year, scrutiny of regional admission ceilings, overseas processing priorities, and countries requiring special humanitarian concern--the normal fare at most annual consultation-hearings--took a back seat to intense debate over the Administration's proposal to revamp the nation's domestic refugee resettlement assistance program. An appropriations bill recently passed by the House of Representatives shifts a significant amount of FY 93 resettlement funding from states to private voluntary resettlement agencies (see Recent Developments).

The proposed new system, referred to as the Private Resettlement Program (PRP) by the Administration, Transitional Resettlement Program (TRP) by some agencies, and identified in the House bill as the Voluntary Agencies Program, drew praise from voluntary agencies and federal administrators, and dire warnings from state and local officials.

Jewel Lafontant-Mankarious, U.S. Coordinator for Refugee Affairs, said that the proposed changes, which she described as "innovative," would enable the federal government to accomplish more with less money. Through the proposed changes, Lafontant-Mankarious said, "We think we can do the job better to cover refugees for a longer period of time than could possibly be done under the present set-up."

"The decision to move to a voluntary agency-run program is both a budgetary decision and a policy driven decision," acknowledged Chris Gersten, director of the Office of Refugee Resettlement in the Department of Health and Human Services. "All of our demonstration projects, going back seven or eight years, indicate that the voluntary agencies do an immeasurably better job of resettling refugees and getting them self-sufficient than the government sector [does]."

Local officials at the hearing disagreed with that assessment and characterized the proposed new program as "untested" and "puzzling". They warned that the Administration's proposal could hurt refugees and leave financially strapped states and cities with even more unreimbursed expenses for refugee care.

"The...proposal represents sweeping changes with very little information that describes exactly how it will work," complained Andy Menendez, an official of Dade County, Fla. Menendez testified on behalf of the National Association of Counties, which passed a resolution in July urging Congress to reject the new resettlement system.

James Scheibel, mayor of St. Paul, Minn., who testified on behalf of the U.S. Conference of Mayors, said the proposed shift of federal resettlement dollars from states to private agencies could undercut refugees' legal protections and health care, and could be detrimental to refugees resettling in areas devoid of voluntary agencies. He recommended that pilot programs should test the proposed reforms before making wholesale "radical change."

"There have been enough [pilot programs]," countered John Fredriksson, representative of the Lutheran Immigration and Refugee Service. Many aspects of the proposed system are tested "and proven to work," he added.

By reducing the role of local public agencies, the new system would offer "one-stop shopping" for refugees, said Dawn Calabia, director of refugee policy for the U.S. Catholic Conference Migration and Refugee Services. With the reforms, refugees would "come to one place, they start [to receive] the services, they continue the services, we keep in constant touch with the families," she said.

Donald Hammond, who testified on behalf of several InterAction refugee resettlement agencies, concluded that if the proposed changes become law, they would be "cost effective, and...a good move in refugee resettlement."

"It is rather unfortunate," Hammond said, "that the private agencies and the local and state governments have been pitted against each other, because it is important that we work together in any system. And I think that there is room...[in the proposed new program] for the states to continue their part."

ties of humanitarian concern in FY 93.

The region's 7,000 admissions next year fall far short of the 17,000 admission slots recommended by InterAction, which urged allotments of 6,000 for Iraqis in Turkey and Greece, 10,000 for Iraqi refugees in Saudi Arabia, and 1,000 slots combined for Afghans, Iranians, Sri Lankans, and stateless Palestinians.

Resettlement from Eastern Europe Cut in Half

The Administration plans to limit the number of refugees from Eastern Europe to 1,500 next year, half the allotment currently in effect for FY 92.

About 30 percent of the refugees admitted from Eastern Europe will be spouses and children of previously admitted refugees--known as Visa 93 recipients--primarily from Poland and Romania. The remaining admissions will be Romanian and Albanian refugees, although the State Department will cease to designate Albanians or any other Eastern European nationality as being of special humanitarian concern in FY 93.

With refugee flows from Bosnia mounting by the day, "we will closely monitor...the former Yugoslavia in particular to determine whether any changes are necessary in the program," the Administration said in its report to Congress.

"Our assumption is that the people who are fleeing [Yugoslavia]...are people who want to return to their homes," said Ambassador Warren Zimmermann, director of the State Department's Bureau for Refugee Programs and, until recently, the U.S. ambassador to Yugoslavia.. "What we're trying to do is encourage countries nearby to take people on a temporary basis. And we're prepared to help them."

The U.S. Catholic Conference's Migration and Refugee Services, in its testimony at the House hearing, urged U.S. officials to grant admission to some refugees from the former Yugoslavia, "particularly the widowed or handicapped with close U.S. ties, and the growing number of children orphaned by war."

InterAction urged that the region's refugee admissions slots should remain at 3,000 for FY 93.

Admissions from Former Soviet Union Continue Under Lautenberg Amendment The United States plans to resettle 50,000 nationals of the former Soviet Union next year, compared to 61,000 this year. FY 92 admissions included 50,000 planned slots plus 11,000 unused slots from FY 91 caused by slow Soviet processing of exit permits.

The allotment next year will again go to Soviet groups identified in the Lautenberg amendment: Soviet Jews, Evangelical Christians, Ukrainian religious activists, "as well as other individuals of concern," according to Lafontant-Mankarious. The vast majority of refugees admitted from the former Soviet Union have family ties in the United States, she said.

The Soviet Union's allotments drew support from the Council of Jewish Federations and the Hebrew Immigrant Aid Society (HIAS) in testimony at the House hearing.

"There seems to be in the minds of some a question of whether the situation [in the former Soviet Union] is such that the refugee status designation [should] be changed," said Martin Wenick, vice president of HIAS. "Historically the Jewish community has suffered in the Soviet Union, and they've never been made to feel at home. In the current period of instability, many of the prejudices of the past...are beginning to reappear.... The Jewish community in the former Soviet Union is caught in the middle of the ethnic conflicts that are occurring."

In-Country Processing for Haitians, Cubans

The Administration's ceiling for Latin America and Caribbean refugees is 3,500 in FY 93, an increase of 500 over the FY 92 cap. "The 3,500 numbers will be available principally for in-country processing of Cubans, Haitians approved in our in-country processing program, and a small number of exceptional cases from other nationalities," the Administration's report stated.

The U.S. will designate only Cuba, Haiti, El Salvador, and Guatemala for special humanitarian concern next year--a status that had been accorded to all nationalities in the region in FY 92.

Sen. Dennis DeConcini (D-Ariz.) used the Senate consultation hearing to grill Administration officials about U.S. interdiction of Haitian refugees on the high seas. "The Haitians are shunted off. It looks like hell," DeConcini said.

"It may look bad, but the fundamental point was too many people were in danger of drowning," Eagleburger replied. "The magnet effect of Guantánamo or bringing them to the U.S." would simply attract more, he said. "We have investigated 2,500 cases...and we have found no case of persecution of people because they were repatriated."

The ceiling of 3,500 refugee admissions from Latin America/Caribbean is two-thirds less than the 10,500 slots recommended by InterAction resettlement agencies. InterAction recommended 5,000 Cuban admissions, 4,000 Haitian admissions, and 1,500 from the Andean region.

1,000 Unallocated Admissions In FY 93, the Administration will continue the practice begun in FY 92 of setting aside 1,000 unallocated resettlement slots to permit a more flexible response to refugee emergencies anywhere in the world.

The Administration's new report to Congress on refugee admissions, however, indicates that as of April the United States had not yet used any of the 1,000 unallocated admissions for FY 92. The report predicted that only 200 refugees would be admitted in this category by the end of the fiscal year, leaving 800 funded unallocated slots unused.

InterAction recommended 5,000 unallocated admission slots in FY 93 "for refugees identified by UNHCR as being at risk, victims of torture, unaccompanied minor children, women at risk, and others with compelling humanitarian reasons."

Recent Developments

COURT OF APPEALS RULES SUMMARY RETURN OF HAITIANS ILLEGAL, BUT SUPREME COURT SAYS INTERDICTION MAY CONTINUE

The U.S. Supreme Court ruled on August 1 that the Coast Guard may continue interdicting Haitian boats and returning asylum seekers to Haiti without first determining their refugee status. By a 7-2 vote, the Court lifted an injunction against the practice that had been imposed on the government by a federal appeals court on July 29.

In that ruling, the U.S. Court of Appeals for the Second Circuit ruled as illegal the "Kennebunkport Order," President Bush's March 23 directive to the Coast Guard to return all interdicted Haitians summarily without first determining whether they might have credible fears of persecution.

In a 2-1 ruling, the court panel directed a lower court to grant an injunction against further forced returns. No Haitians were interdicted during the brief period the injunction was in effect.

The Supreme Court's decision hinged on whether allowing the injunction to stand would cause greater harm to the government than the harm Haitians would face if the injunction were lifted.

Associate Justices Harry Blackmun and John Paul Stevens wrote in dissent that the refugees "face the real and immediate threat of persecution, terror and possibly even death at the hands of those to whom they are being forcibly returned;" but that the government offered only a vague explanation of harm to foreign policy if the order were allowed to stand.

Supreme Court Has Not Ruled on the Merits Although not directly addressed by the Supreme Court, its decision to lift the injunction was also likely influenced by its initial sense of the likelihood of success on the merits of the underlying legal case. The Court gave the government until August 24 to request a hearing on the merits. Lawyers representing the Haitians said they would request an expedited hearing.

The second circuit itself laid down a challenge to the Supreme Court to take up the case by saying flat out that "we disagree with the eleventh circuit's conclusion that §243(h) of the INA does not apply to the return of refugees interdicted beyond the territorial waters of the United States." The majority added, "Since this creates an explicit 'circuit split', the Supreme Court may see fit to grant certiorari on this case...and decide the issues which it declined to consider in *HRC v. Baker*," a case brought by the Haitian Refugee Center (HRC) in Miami that also challenged the legality of the interdiction program (see *Refugee Reports*, Vol. XII, No. 11).

At Issue: Is Forced Repatriation of Refugees from International Waters Prohibited? The second circuit opinion, written by Judge George C. Pratt, focused the legal question presented by *Haitian Centers Council (HCC) v. McNary* narrowly on whether the U.S. is permitted "to intercept boatloads of Haitian refugees at sea and to return them to their persecutors in Haiti."

The second circuit emphasized the "plain language" of section 243(h)(1) of the Immigration and Nationality Act (INA), which states that the "Attorney General shall not deport *or return any alien*...to a country if...such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion."

The case, as understood by the second circuit, boils down to whether the Haitian boat people qualify as "any alien" and if what the United States is doing is "to return" them to Haiti without determining first if they would be persecuted there.

The court also noted how the Refugee Act of 1980 amended this section of the INA. Prior to 1980, the Attorney General was authorized not to deport "any alien within the United States" to a country where he would be subject to persecution. But after 1980, the word "to return" was added and the phrase "within United States" was dropped.

In several pointed references, the court cited earlier opinions by Associate Justice Antonin Scalia saying that unless the plain language of the statute leads to "patent absurdity," it should hold sway over interpretations resting on legislative history and other grounds.

The court first cited the INA definition of "alien" as "any person not a citizen or national of the United States" and went on to say, "The plain language of this provision makes clear that aliens are aliens, regardless of where they are located." The dissenting opinion, written by Judge John M. Walker, Jr., President Bush's cousin, conceded that the plaintiff Haitians are "aliens" as defined in the INA.

"Return" Greater controversy attached to the meaning of the word "return". The majority cited the dictionary definition of "return" as "to bring, send, or put (a person or thing) back to or in a former position." It said that Congress "amplified the meaning of 'return' by adding after the word 'return', the prepositional phrase 'to a country [where he would be persecuted]; significantly, Congress made no mention of where the alien...must be returned 'from'."

"Of parallel significance," said the court, "the Kennebunkport Order itself directs the Coast Guard to 'return the vessel and its passengers *to* the country from which it came.'" (emphasis added) Drilling its point home, the majority said, "As we do with Congress, we presume that the President of the United States uses words with their 'ordinary meaning'; thus, when the 'return' directed by the President is *to* a persecuting country, it is exactly the kind of 'return' that is prohibited by §243(h)(1) of the INA."

The court made a similar "plain language" analysis of Article 33.1 of the Refugee Convention, which says that "no Contracting State shall expel or return ('*refouler*') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened." The court stated that "the word 'return' here, just as in §243 (h)(1), means 'return', without regard to where the refugee is to be returned *from*, and, just as with §243(h)(1), what *is* important under Article 33.1 is where the refugee is to be returned *to*." The court ruled that the government's position that Article 33.1 applies only to refugees who have entered the territory of a contracting state is "untenable in view of the plain language" of the treaty.

Dissent Looks at Drafting History of Domestic and International Law Judge Walker, writing in dissent, said that section 243(h)(1) and Article 33.1 "do not apply to aliens on the high seas." The Refugee Act of 1980 did not, in Walker's view, go as far as the majority would hold. On the contrary, he said, "the legislative history demonstrates that Congress intended, by means of the word 'return,' to expand the provision to encompass 'excludable,' as well as 'deportable,' aliens." Excludable aliens, he points out, are physically present in the United States, but have not been formally permitted to enter the country.

Judge Walker cited the House Report accompanying the Refugee Act of 1980 as saying that the amendment of section 243(h) was "to require (with some exceptions) the Attorney General to withhold deportation of aliens who qualify as refugees *and who are in exclusion as well as deportation proceedings*." (Emphasis added.) The House Report, says Walker, "demonstrates that Congress intended to broaden §243(h)(1) to apply to excludables, but did not extend the provision to aliens outside United States territory."

Walker refers to the drafting history of the 1952 Refugee Convention, where, he says, Baron van Boetzelaer, the Dutch delegate, "graciously provides a precise definition" of the word "return". According to van Boetzelaer, "the word 'expulsion' related to a refugee already admitted into a country, whereas the word 'return' ('*refoulement*') related to a refugee already within the territory but not yet resident there." Walker cited the record of the Draft Convention as saying, "There being no objection, the President ruled that the interpretation given by the Netherlands representative should be placed on the record."

Although saying that Walker's interpretation of the Draft Convention was a fair one, the majority said that "it would be an equally fair reading to see this passage as simply recording the views of a dissenting member." The President of the Draft Convention ruled only that the Dutch delegate's interpretation be "placed on the record." The majority also noted that van Boetzelaer's stated concern that the Netherlands ought not to be under any legal obligation not to close its border in the event of a mass migration "would not have meant that his country could go beyond the negative act of closing its border and take the affirmative steps of seizing refugees approaching the border and forcibly carrying them back to the custody of those whom they are fleeing."

Collateral Estoppel The first part of Judge Walker's dissent does not deal with the merits of the case at all, but whether the litigation was already decided in a prior case. In that instance, the principle of "collateral estoppel" comes into effect--one that prevents a suit involving the same facts and legal issues as a prior suit from being relitigated. Walker said that the same issues were raised, litigated, and decided against the plaintiffs in *Haitian Refugee Center (HRC) v.Baker*. "The plight of the Haitian plaintiffs in this case, whose desperation forces them onto the ocean in unseaworthy boats, escapes no one who considers the issues presently before us," said Judge Walker. "I believe, however, that plaintiffs have already had a day in court."

The majority held that the plaintiffs here are not the same as in *HRC v. Baker* because "they are not being interdicted 'pursuant to the United States Interdiction Program' that was before the eleventh circuit." It said that "the program put in place by the Kennebunkport Order is one of summary return without screening. This is a change sufficient to avoid the class definition in *HRC v. Baker*."

Judge Walker, on the other hand, says that the Kennebunkport Order did not create a new interdiction program, since it, like the previous Executive Order of 1981, both were issued pursuant to a single Proclamation dated September 29, 1981. "The government's interdiction policy, which has continued unabated both before and after the May 23, 1992 Order, thus constitutes one program, not two," he said.

Walker held that "the only asserted difference between the classes is that the *HRC v. Baker* class received some minimal screening rights prior to return, whereas the current plaintiffs receive none. The issues with which we are concerned, however, do not in any way turn on the existence or non-existence of a minimal screening." Those issues, he defines as "the scope of INA §243(h); the self-executing nature of Article 33; and judicial review under the APA [Administrative Procedures Act]," which, he said, "are identical to those before the *HRC v. Baker* court."

In a concurring opinion with the majority, Judge Jon O. Newman discussed the significance in the changes in the interdiction program in terms of the course of the litigation. "The Government persuaded the Supreme Court not to review the Eleventh Circuit's decision by assuring the Court that it would screen Haitian refugees and bring to this country those who qualified for asylum. Having made that representation to insulate from review a decision that the screening was lawful, the Government now asks us to apply collateral estoppel to a lawsuit challenging the new policy of returning Haitians without screening."

Newman said that if the court acceded to that argument, "we would be letting the Government keep the Eleventh Circuit ruling from the

Supreme Court on a promise that is no longer being honored and then let the Government keep our decision from the Supreme Court by asserting that we had correctly applied collateral estoppel. That would be gamesmanship of the rankest sort, especially inappropriate in a lawsuit affecting people's lives."

HOUSE APPROPRIATES $321.75 MILLION FOR FY 93 DOMESTIC REFUGEE RESETTLEMENT ASSISTANCE

On July 28, the House of Representatives approved a spending bill, H.R. 5677, that would provide $321.75 million for domestic refugee resettlement in FY 93. Although this is $88.25 million less than the FY 92 appropriation for the Office of Refugee Resettlement (ORR), it is significantly more than the $227 million that the Administration proposed for ORR in the President's FY 93 budget--and that refugee advocates feared might be the total that the House would appropriate.

There was even concern that the House might not appropriate any funds for refugee assistance, because Rep. William H. Natcher (D-KY), chairman of the House Appropriations Committee's Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, has, in the past, refused to appropriate funds for programs that have not been authorized. The Refugee Act of 1980 has not been authorized for three of the past four years, although the House Judiciary Committee did approve a three-year reauthorization on July 22 (see Updates).

Refugee advocates played an important role in urging the House to provide additional funds for domestic refugee assistance. Frank Sharry, director of the Washington, D.C.-based National Immigration, Refugee, and Citizenship Forum, which spearheaded a campaign to "Rescue Refugee Resettlement Funding," said, "To a large extent, the combined efforts of local refugee communities and their leaders, local service providers, state and local government officials, national voluntary agency representatives, and Washington, D.C.-based advocates made the increase in funding possible. Many congressional offices are said to have been amazed at the amount of pressure they received on this issue. In many respects, this campaign demonstrates that the refugee resettlement community--public and private, local and national--has arrived as a potent political force."

House Signals Support for Proposed Changes in Domestic Refugee Resettlement Program.

The committee report accompanying H.R. 5677 provides line items that signal House support for Administration proposals to change the domestic refugee resettlement assistance program.

The House did not appropriate any funds for Refugee Cash and Medical Assistance or Voluntary Agency Matching Grant Programs (for which the FY 92 appropriations were $234 million and $39 million respectively). Instead, it appropriated $118.8 million for a "Voluntary Agency Program," under which refugee resettlement agencies would provide financial assistance, case management, and employment services to newly arrived refugees. [This proposed program has been called the Private Resettlement Program (PRP) by the Administration and Transitional Resettlement Program (TRP) by some agencies; the proposed program's formal name remains under discussion].

Refugee advocates hope that the Senate will appropriate additional funds that would bring the FY 93 funding level closer to that of FY 92. Senate action on this is not expected until mid-September, when Congress returns from its summer recess. The Senate Judiciary Committee has already approved a Refugee Act reauthorization bill that also includes language paving the way for reform of the refugee assistance program (see *Refugee Reports*, Vol. XIII, No. 6). Discussions on such reform have been taking place for nearly two years.

FY 93 House Appropriation for ORR

Voluntary agency programs	*$118,800,000*
Special medical assistance	*49,500,000*
Unaccompanied minors	*24,750,000*
Social services	*84,150,000*
Targeted assistance	*44,550,000*
TOTAL	***$321,750,000***

HOUSE PASSES FOREIGN AID BILL; $620 MILLION FOR REFUGEE ASSISTANCE

The House of Representatives approved $620.7 million in FY 93 for Migration and Refugee Assistance (MRA) and $49.2 million for the Emergency Refugee and Migration Assistance Fund (ERMA) as part of a $13.7 billion foreign aid bill that passed the House on June 25.

The MRA budget in the House bill (H.R. 5368) earmarks a minimum of $315 million for overseas refugee assistance, $80 million for refugee resettlement in Israel, and $11.5 million for administrative expenses. Most of the remaining $214 million would fund refugee admissions.

The $620.7 million MRA budget approved by the House equals FY 92 spending and is $70 million more than the Administration requested for FY 93.

The House bill's $315 million for overseas refugee assistance surpasses FY 92 spending by $12 million and is $50 million greater than the Administration's FY 93 request. A report by the House Appropriations Committee accompanying the foreign aid bill stated that $315 million "is the minimum needed to sustain basic life-support systems in refugee camps and settlements around the world."

With 17 million refugees worldwide, the House bill would allot slightly more than $18 in overseas assistance per refugee, compared to $20 per refugee in the mid-1980s.

The report by the Appropriations Committee urged that $3 million of the MRA budget should go to special programs to improve the care of refugee women and children, including unaccompanied minors. "Women and children comprise 80 percent of the world's refugees, yet receive inadequate protection in refugee camps or on their return to home communities," the report said.

The bill's $49.2 million for ERMA is $29 million more than the Administration had requested.

Deliberations on next year's MRA and ERMA budgets--as well as the entire foreign aid program--now move to the Senate.

INS UNVEILS DRAFT SUMMARY EXCLUSION BILL

The Immigration and Naturalization Service (INS) unveiled a draft summary exclusion bill at a July 9 hearing before the House Subcommittee on Aviation that would automatically exclude from entering the United States any alien with no or fraudulent documents, except for certain asylum seekers with credible claims. The draft bill had been circulating informally on Capitol Hill for several months.

INS Commissioner Gene McNary said that the bill would "require the immediate return of the individual to the country from which his flight originated." He said that judicial review would be limited to habeas corpus, but that aliens presenting a "credible fear of persecution" would not be immediately excluded and would be given an opportunity to apply for asylum.

The bill, entitled "Port of Entry Inspections Improvement Act of 1992," was attached to McNary's testimony, but has not actually been introduced. It states that an alien using improper documents "may not apply for or be granted asylum" unless he used them in order to flee from a country where he credibly feared persecution or from a second country where there was a significant danger of being forcibly returned to the persecuting country. Aliens who destroyed their documents en route would be similarly barred from applying for asylum unless they could also show that "presentation of such document" was pursuant to leaving the country of persecution. Not explained is how a nonexistent document could be presented at all.

A "credible fear of persecution" is defined to mean 1) that the alien's statements are probably true, and 2) that there is "a significant possibility" that he could establish eligibility as a refugee.

The draft bill says that if a "specially trained" immigration officer determines that an asylum seeker without proper documents does not have a credible fear of persecution "in the country from which the alien was last present prior to attempting entry into the United States" and that there is no significant danger of his being returned to a persecuting country, then he could be "specially excluded and deported" and would not be permitted to appeal the decision.

The INS bill would also double the penalty for alien smuggling in certain situations from five to ten years' imprisonment. It would authorize up to 20 years' imprisonment for each alien involved in cases causing injury or putting the life of the alien in jeopardy.

McNary presented a transmittal letter for the draft bill from the Justice Department to the Speaker of the House. The letter stated that 37,500 aliens with fraudulent or no documentation sought entry at airports in FY 91. It said, "These aliens have discovered that, given the U.S. government's limited detention space, they will likely be 'paroled' into the community at large if they simply indicate a desire to apply for asylum in the United States." The letter said that 1,885 of the 3,100 such aliens who were paroled from JFK airport in New York failed to appear for their hearings.

Responding to questions on the INS draft bill, McNary said that "a trained adjudicator" would be able to determine credible claims in "a quick interview," and added that "probably 90 percent of those who claim asylum do not have a credible case." He added that those determined to have credible cases would be released on bond. McNary said that the objective of the INS is to make asylum determinations within 90 days.

Airline Industry Criticizes INS on User Fees, Detention Costs Airline industry witnesses at the hearing faulted the INS for requiring them to pay the detention costs of excludable aliens seeking asylum. The Air Transport Association (ATA) is currently suing the INS on this issue in the U.S. district court in Washington, D.C.

"Airline representatives cannot, and should not, also be forced to act as INS enforcement agents," said James W. Callison, senior vice president of corporate affairs for Delta Airlines.

"There is no way air carriers, or even INS, can anticipate a sudden plea for asylum by someone who has stated an intention to only transit the United States," he said. "Nor is there any way air carriers can detect artfully forged documents or predict that the documents will be destroyed during the trip." Nevertheless, Callison said, the carriers are stuck with the cost of housing, guarding, and feeding such passengers for months at a time, during the often protracted asylum process.

ATA Senior Director Richard E. Norton said that the INS had reneged on its end of "a well-documented *quid pro quo*" whereby the carriers had supported the passage of user fees if the INS would cover detention costs from fee revenues.

Callison said that Delta was pleased with the parole program that would release certain asylum seekers with strong claims (see *Refugee Report*, Vol. XIII, No. 4 and XII, No. 2). He noted, however, that the parole program requires "the full attention of the INS and the asylum seeker's counsel to identify and substantiate persons or organizations who will be responsible for these aliens."

Under questioning about the responsibility of airlines when documents are destroyed en route, McNary said, "In many cases, we feel they [the airlines] haven't done everything they can." INS Associate Commissioner for Examinations, James A. Puleo, explained how carrier fines could be waived, such as by producing a photocopy of the original documents shown to the airline upon boarding.

Overseas Pre-inspection In a related development, the House Subcommittee on International Law, Immigration, and Refugees passed a bill (H.R. 5555) on July 23 that will increase preinspection of documents at foreign airports. At the mark-up, Rep. Charles E. Schumer (D-N.Y.) offered a substitute amendment that would bolster protections for asylum seekers from the language of the bill as first introduced. The amended bill would only permit the establishment of preinspection stations in countries that maintain procedures for asylum seekers in accordance with international law and in countries that have not produced refugees admitted to or granted asylum in the United States.

At the July 9 hearing, Commissioner McNary was not critical of Schumer's bill, but said that he preferred the Justice Department's draft bill as more responsive to the problem of document fraud and lack of detention space.

Arthur Helton, director of the Refugee Project of the Lawyers Committee for Human Rights, told *Refugee Reports* that while the Schumer bill was "not generous," it also should not violate fundamental refugee or human rights principles. He said that "the amendments go a long way toward ensuring that the flight of people in fear of persecution is not frustrated." Helton added that a fundamental concern was "access to a fair and reliable procedure somewhere. It need not happen in the United States."

He said that voluntary agencies would need to exercise "close oversight" to ensure that preinspection would occur in places where asylum seekers are accorded fair and reliable procedures.

Commenting generally on various plans that are being floated to speed up the asylum process, Helton said that agencies should be able to "conceive of more expeditious procedures that still respect fundamental fairness," but that "we shouldn't be wedded to any particular procedure," and characterized as "somewhat distracting" the debates regarding the specific roles of immigration judges and asylum officers or descriptive labels such as "adversarial" or "nonadversarial" procedures.

INTERNATIONAL CONSENSUS FORMING ON BOSNIA SAFE HAVEN ZONE

Responding to an invitation from UN High Commissioner for Refugees Sadako Ogata, 61 governments sent representatives to Geneva on July 29 for a one-day meeting to attempt to forge an international consensus on handling the refugee crisis spurred by the war in the former Yugoslavia. At the time of the conference, the count of refugees and displaced persons stood at 2.2 million, more than 1.4 million of whom are from Bosnia, and most of the remainder displaced by earlier fighting in Croatia.

Few countries responded positively to a German call on governments to pledge to accept certain quotas of refugees in their countries. Germany itself has accepted about 275,000 refugees so far, significantly more than any other country outside the former Yugoslav republic.

Much greater interest was shown in a proposal by Slovenia for establishing four safe haven zones within Bosnia modeled on Operation Provide Comfort used for the Kurds of northern Iraq. According to the Slovenian proposal, there would be a western safety zone in the area of Bihac, an eastern zone in the area of Tuzla and Zonica, the city of Sarajevo, and the area of Mostar. "These safety zones shall facilitate the provision of humanitarian assistance to the needy and would include, *inter alia*, shelter, food aid, medical care, agricultural rehabilitation, and other humanitarian and relief measures."

Britain and France, which have taken in less than 3,000 refugees combined from former Yugoslavia, expressed enthusiasm about the Slovenian plan. French Foreign Ministry spokesman Daniel Bernard said, "We have to try to keep them in [former] Yugoslavia. That was the view of the vast majority of countries taking part in the conference."

He said that resettling refugees from Bosnia abroad "is probably the best way of supporting the policy of ethnic cleansing." He added that the protected zones would have to be established "in parts of Bosnia not affected by the conflict."

The existence of *any* area in Bosnia not affected by the conflict is open to serious question. In the region around Bihac, generally viewed as one of the most promising sites for a safe haven zone, the *Washington Post* noted, "Bihac and other towns in the region do not have basements. There are few places to hide from the 155mm artillery shells that come crashing down each evening." Local Serb leaders say they will only stop the shelling when the Muslims leave, the *Post* reports.

Reaching protected zones could also be a problem. A recent UNHCR planning paper said, "The routes presently open to deliver assistance into central Bosnia and Hercegovina, including Sarajevo, are not appropriate for winter use. We now use small, unpaved mountain roads, at times reaching an altitude of 1,200 meters, which will be very difficult to keep open during the winter months."

Updates

- The UN High Commissioner for Refugees (UNHCR) reports that 50,000 Cambodian refugees have repatriated from Thailand as of July 13. Following 928 repatriations in March, 4,837

Cambodians repatriated in April, 13,426 in May, and 20,029 in June. UNHCR expects more than 25,000 repatriations in July. In lieu of difficult-to-acquire agricultural land, UNHCR is offering repatriates a housing plot or a cash grant of $50 per adult and $25 per child. Because of the presence of land mines, UNHCR is attempting to steer repatriates away from the northwest and into Cambodia's central provinces.

- On June 20, Hong Kong forcibly repatriated 38 Vietnamese refugees, the first forced repatriations since Britain and Vietnam signed an agreement on May 12 to return all Vietnamese boat people who do not qualify as refugees. Up to 23,057 have been screened out, according to the *Washington Post*, and 27,622 are still awaiting a status determination. About 90 percent are expected to be screened out, according to the *Post*. One of the Vietnamese men who was repatriated was reportedly arrested upon return, allegedly for a burglary he had committed before leaving.

- The House Judiciary Committee approved the "Chinese Student Protection Act" (S. 1216) on July 22. The bill, which passed the Senate on May 21, would allow some 80,000 Chinese nationals who have resided in the United States since the Tiananmen Square massacre to adjust eventually to permanent resident status.

"These are people who are marked... because they took part in demonstrations here in the United States where they were filmed and documented," thereby making their identities known to Chinese authorities, said Rep. Romano Mazzoli (D-Ky.), chairman of the House Subcommittee on Refugees.

The Committee approved an amendment allowing Chinese students a 12-month period to apply for permanent residence status, compared to a six-month filing period in the Senate bill.

The Judiciary Committee blocked an attempt by Rep. John Conyers (D-Mich.) to extend the provisions of the "Chinese Student Protection Act" to include Haitian refugees. "The cases are very similar," Conyers argued, adding that "the United States has granted safe-haven status to refugees in at least 20 different instances" during the past 32 years. The Committee ruled Conyers' amendment "not germane" to the bill.

The "Chinese Student Protection Act" now awaits action by the full House.

- In contrast to efforts in the Senate to reform the U.S. refugee resettlement system, the House Judiciary Committee approved a bill on July 22 to reauthorize the Refugee Act of 1980 for three additional years without revisions in the law. The bill, H.R. 5383, moves to the full House for consideration.

"While there are many structural changes in the bill which our subcommittee would like to see made, at this point...I think we ought to move for the simple extension for a three-year period" so the Appropriations Committee can quickly vote funds for resettlement, explained Rep. Romano Mazzoli (D-Ky.), chairman of the House Subcommittee on International Law, Immigration and Refugees. (For a summary of the Senate Judiciary Committee's bill, see *Refugee Reports*, Volume XIII, No. 6.)

- Temporary Protected Status (TPS) for Somalis has been extended for another year. The notice published in the July 21 *Federal Register*, extends TPS until September 17, 1993 not only for Somali nationals, but for "persons having no nationality who last habitually resided in Somalia." The Justice Department estimates that about 2,000 persons will be protected by the TPS designation. Persons who registered for TPS during the first year are required to re-register before September 17, 1992, the first anniversary of the original TPS designation. No fee is required for filing for TPS, but the usual $60 fee will be charged for those requesting work authorization.

- TPS has been extended for the first time to nationals and habitual residents of Bosnia, although a notice to that effect had not been published in the *Federal Register* at press time. In a related development, on July 31, the House Subcommittee on International law, Immigration, and Refugees passed a bill (H.R. 4008) that would give TPS to all nationals from the former Yugoslav republics. The bill would prevent deportation for one year. It is estimated that about 20,000 "Yugoslav" nationals reside in the United States.

- A total of $82.9 million in FY 92 social service funds for refugee resettlement has been allocated by the Office of Refugee Resettlement (ORR) in the Department of Health and Human Services, according to a notice in the June 26 *Federal Register.* ORR will make $70.5 million available to states, 85 percent of the total. Allocations are based on the number of refugees in each state. California will receive the most, followed by New York, Florida, Texas, Washington, Illinois, Massachusetts, and Pennsylvania. The remaining funds will be disbursed on a discretionary basis, including $1 million for services for former Vietnamese re-education camp detainees.

- The Russia aid bill (S. 2532), passed by the Senate on July 2, includes a two-year extension of the Lautenberg Amendment, which lowers the threshold standard for refugee status for certain category groups from the former USSR and Southeast Asia. The House bill (H.R. 4547), which includes a two-year extension of the Lautenberg Amendment, was reported out from three committees on July 2, but has not yet been voted on by the full House.

  Category groups include Jews, Evangelical Christians, and active members of the Ukrainian Catholic or Ukrainian Orthodox churches. The designation covers all former Soviet Republics, and includes Estonia, Latvia, and Lithuania. It also includes certain groups from Cambodia, Laos, and Vietnam. The Senate version dropped language that had allowed certain parolees from the former USSR and Southeast Asia to adjust their immigration status. The Senate version also includes an amendment that would deny assistance funds to former Soviet republics that "deny or unreasonably interfere" with emigration.

- On July 21, President Bush ordered a $3 million drawdown from the Emergency Migration and Refugee Assistance (ERMA) fund to meet urgent and unexpected needs for Burmese refugees and displaced persons.

- Martin A. Wenick is the new executive vice president of the Hebrew Immigrant Aid Society (HIAS). For the remainder of 1992, Mr. Wenick will divide his time between HIAS and the National Council on Soviet Jewry, where he has served as executive director since 1989.

- Anthony J. Kozlowski is the new executive director of the American Refugee Committee. Prior to assuming his new post, Mr. Kozlowski was an independent consultant based in Geneva. Mr. Kozlowski also served for 13 years as executive director of the International Council of Voluntary Agencies (ICVA) and for 8 years with UNHCR in Africa.

Projects and Programs

D.C. AIDS OUTREACH PROJECT TARGETS ASIAN/REFUGEE COMMUNITY

Since September 1990, the Indochinese Community Center (ICC) in Washington, D.C., has implemented an HIV/AIDS educational outreach program that targets gay and bisexual Asian men, the Lao, Cambodian, and Vietnamese communities and Amerasians.

The ICC, a mutual assistance association providing a variety of services to Southeast Asian and other refugees and immigrants in the Washington area, began its Asian AIDS Prevention Project (AAPP) because of concern over the potential consequences of inadequate Asian-specific HIV/AIDS education efforts. According to a study carried out in San Francisco in late 1990, "AIDS education efforts to reach the Southeast Asian community through the mass media have not been successful.... There was a low level of recall [among those interviewed] of media messages and literature on AIDS prevention."

AAPP Project Director Antonio Pisig says that one of the difficulties in providing HIV/AIDS education to Asians is that "there is a hesitance--a reluctance--in the Asian community to talk about AIDS. Asians often do not self-identify as being at risk. The 'It won't happen to me' attitude is very prevalent."

Pisig's observations appear to be substantiated by the findings of the San Francisco study, which assessed HIV/AIDS knowledge, attitudes, and behaviors among southeast Asians living in San Francisco's Tenderloin neighborhood (many of whom have lived in the United States for less than ten years).

The study was conducted by the Center for Southeast Asian Refugee Resettlement, in cooperation with the San Francisco Department of Public Health and San Francisco State University's Center for Cross Cultural Research and Social Work Practice.

The study found that there was "a high level of ignorance...regarding AIDS transmission," and that knowledge about AIDS transmission "was not significantly related to [changes in] high risk behavior for AIDS." The summary report of the study's findings, issued in June 1991, added, "While acutely sensitive to the dangers of AIDS, there is also a sense [among the Southeast Asians interviewed] that the threat is not personal but rather directed at other people."

The ICC project tries to reach its different target groups in a variety of ways:

- Producing HIV/AIDS education material in Vietnamese, Cambodian, and Lao (the San Francisco study also found that interviewees expressed "a strong preference...for AIDS information to be delivered in their native language");
- Hosting HIV workshops for young people, a group at high risk for HIV/AIDS;
- Setting up booths at Southeast Asian community festivals and social events (where HIV/AIDS information is sometimes intermixed with other material so that people will not shy away from the booth);
- Working with gay Asian social and political groups and visiting the city's gay bars to reach gay and bisexual Asians;
- Working with other voluntary agencies and MAAs to educate refugees and immigrants on HIV/AIDS.

Recently, ICC staff were invited to conduct presentations for Asian students at a District of Columbia public school on a variety of issues affecting Asian youth, including HIV/AIDS. AAPP staff hope to collaborate with other schools in the District, and Maryland and Virginia suburbs.

ICC has found that making home visits is an effective means of outreach. Nine part-time AAPP outreach workers spend most of their time visiting individual families and talking with them about HIV/AIDS in the privacy of their homes. The contact with the families is made with the help of other community groups and leaders. AAPP's outreach workers encounter mixed responses. According to Pisig, those who have been in the United States longer are more uncomfortable about discussing AIDS, even in private, and are therefore less receptive. "Recent arrivals are more receptive," Pisig told *Refugee Reports*, perhaps because they are not yet aware of the stigma attached to AIDS and are therefore less self-conscious about addressing the issue.

According to Pisig, "There also needs to be outreach to other Asian groups, such as Chinese, Filipinos, and Koreans. But these efforts must come from within these communities in order to insure that outreach and presentations are culturally and linguistically appropriate."

CONFERENCES

• The American Refugee Committee (ARC) and the U.S. Committee for Refugees are sponsoring a conference on "Refugees in the 1990s: New Strategies for a 'New World Order'," to be held September 25 in Minneapolis. It will bring together local, national and international experts and policymakers. The former UN High Commissioner for Refugees, and current Deputy High Commissioner, and several other leading thinkers and policymakers will lead discussion at the conference.

The cost of the full-day conference is $50. For information, call Holly Holmes, (612) 378-0681.

• The Immigrant Legal Resource Center, together with Catholic Charities of Dallas, will hold an intensive training on immigration law for non-profit, non-attorney legal workers, in Dallas, Texas on October 19-21 and November 16-19, 1992. Registration is $20; the training manual is $50. For further information, contact Vanna Slaughter at (214) 528-4870.

• The Spring Institute for International Studies will conduct a conference in Denver, Colorado on "Empowerment and Self-Sufficiency for Refugees from the former Soviet Union and Africa" from September 30 to October 2, 1992. There is no registration fee. For further information, contact the Spring Institute at (303) 571-5008.

FY 91 & 92 REFUGEE ADMISSIONS AND FY 93 CEILINGS

REGION	FY 91 ACTUAL	FY 92 AUTHORIZED LEVELS	FY 92 ESTIMATED ARRIVALS	FY 93 PROPOSED CEILINGS
Africa	4,424	6,000	6,000	7,000
East Asia	53,486	52,000	52,000	52,000*
Eastern Europe	6,855	3,000	3,000	1,500
Latin America/ Caribean	2,237	3,000	3,000	3,500
Near East/ South Asia	5,359	6,000	5,500	7,000
Soviet Union/ Former Soviet Union	38,661	61,000	60,000	50,000
Unallocated Res.	n/a	1,000	200	1,000
SUB-TOTAL	**111,022**	**132,000**	**129,700**	**122,000**
Privately Funded	1,789	10,000	1,500	10,000
TOTAL	**112,811**	**142,000**	**131,200**	**132,000**

*Includes Amerasian immigrants and their families who enter as immigrants under a special statutory provision, but receive benefits as refugees.

Source: U.S. Coordinator for Refugee Affairs

REFUGEE REPORTS is published monthly for $40.00 per year for one subscription, $30.00 each for two or more subscriptions to the same addressee, or $25.00 each for ten or more subscriptions requested at the same time, mailed to separate addresses; overseas postage is an additional $24.00 for second class or an additional $75.00 for airmail; by ACNS, 95 Madison Avenue, Third Floor, New York, NY 10016. Second Class Postage paid at New York and additional mailing offices. POSTMASTER: send address changes to *Refugee Reports*, Sunbelt Fulfillment Services, P.O. Box 41094, Nashville TN 37204.

Editorial comments and inquiries should be sent to : *Refugee Reports*, 1025 Vermont Avenue NW, Suite 920, Washington, DC 20005. All communications regarding subscriptions should be sent to: *Refugee Reports* Subscriptions, Sunbelt Fulfillment Services, P.O. Box 41536, Nashville, TN 37204. (615) 377-3322.

Basic subscription rate for 12 issues per year: $40.00; Multiple-copy rate: $25.00; Single copies of back issues: $4.00
Co-Editors: Bill Frelick and Virginia Hamilton; Staff Writers: Court Robinson, Hiram A. Ruiz, and Jeff Drumtra.
Distribution Manager: Raci Say; Production Coordinator: Koula Papanicolas
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Refugee Reports

A News Service of the U.S. Committee for Refugees, a Project of the American Council for Nationalities Service
Sunbelt Fulfillment Services
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Nashville, TN 37204

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A News Service of the U.S. Committee for Refugees
1025 Vermont Avenue NW, Suite 920 Washington, DC 20005 (202) 347-3507

Volume XIII, Number 8 **August 28, 1992**

"UNHAPPY ENDGAME" HMONG REFUGEES IN THAILAND

[Editors' Note: Court Robinson arrived in Thailand in July, where he will be living for much of the next two years, documenting Indochinese refugee repatriation through a MacArthur Fellowship in Peace, Security, and International Cooperation. Court continues to write for Refugee Reports *and will be submitting monthly notes from the field. This month's report is on the more than 40,000 Hmong remaining in Thailand.]*

The numbers show an ironic symmetry. In 1975, at the start of the Indochinese refugee exodus, about 44,000 highland Lao refugees, predominantly Hmong, were living in camps in Thailand, along with 9,000 lowland Lao. Seventeen years later, after 300,000 Laotians have resettled overseas and 10,000 have gone home, the number of Laotian refugees and asylum seekers in Thailand has returned to its original level.

While change, both dramatic and incremental, has come to Southeast Asia in the last two decades, it has been slow in coming to the Laotian camps. Now time is catching up to the refugees in Thailand, and for some groups, that is an unsettling, even ominous, prospect.

"One could easily say that the problem with lowland Lao refugees in Thailand is virtually resolved," a UNHCR official told me. Only about 6,000 lowland Lao remain in Thailand, almost all of whom have refugee status and await eventual voluntary repatriation. Arrivals have declined to a handful in the last twelve months; during that same period, meanwhile, 1,800 lowland Lao resettled in third countries, and 1,050 returned home, either voluntarily or without objection. Increasing numbers of some highland Lao groups--the Mien, Htin, and others--are returning home as well.

"Overall, the picture for Lao repatriation is very good," the official said. Here he frowned, then smile quizzically and threw up his hands. "The Hmong, of course, are the exception."

The Hmong helped fight America's secret war against the Pathet Lao until a communist victory in 1975 sent tens of thousands fleeing for safety into Thailand. In many ways,

IN THIS ISSUE:

Court Robinson reports on his recent site visit to Laotian refugee camps in Thailand. There, the clock is ticking for thousands of refugees who face hard choices about whether to return to Laos, or to seek resettlement in the United States. Both prospects are difficult..........1

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they have been fighting ever since. The Hmong, in a word, are not reconciled: They are not reconciled to going home or to living in the United States. Some are still at war with the Lao socialist government, and others are simply at odds with their circumstances.

But the inevitable reality the Hmong refugees must face is that time is running out for them in Thailand. "The clock is ticking," said Dennis Grace, Joint Voluntary Agency Representative in Thailand. "The end of 1994 is the deadline for Laotian refugees to be out of Thailand. We've got two fiscal years and one quarter to sort things out.

"So far, the Hmong have been no-shows for voluntary repatriation," Grace said. "How do you go from 100 Hmong to 10,000 in the next twelve months? Everyone is waiting for something to fall into place, but there is little out there to suggest a turn-about. Probably half the Hmong in Thailand want to go back to Laos, but without some success stories on the repatriation side, a good percentage of people may end up backing into the United States. It won't be forced, but it won't be what they want either."

Grace suggested that as many as 30,000 Hmong could potentially seek resettlement in the United States in the next two or three years, when most estimates suggest the State Department is planning on admitting about half that number. "We are going to get ourselves into an unhappy endgame with the Hmong," he said.

Fifth Tripartite Meeting Sets New Targets, Deadlines One year ago, at the fourth in a series of meetings between the Thai and Lao governments and the UN High Commissioner for Refugees (UNHCR) held in Laos in June 1991, the three parties had agreed to a three-phased repatriation initiative.

During the start-up phase, from July 1991 to May 1992, an anticipated 5,000 to 6,000 new returnees would be reintegrated into the Lao society and economy. According to the plan endorsed at the Luang Prabang meeting, repatriation would gradually expand in Phase II (June 1992 to May 1993) and Phase III (through the end of 1994), by which time Thailand hoped that virtually all of the Laotian refugees would have resettled elsewhere or gone home.

The repatriation plan was based on principles previously agreed to by the three parties that "repatriation is to take place under safe, humane, and UNHCR-monitored conditions" and that "those considered to be refugees and asylum seekers returning under the program will do so on a voluntary basis, whereas those rejected in the screening process will be returned without the use of force in safety and dignity."

In fact, from June 1991 to May 1992, only 1,977 people returned to Laos, about one-third the original target for Phase I. Of these, 1,207 were refugees returning home voluntarily and 770 were screened-out asylum seekers. Fewer than 100 Hmong refugees repatriated voluntarily during this period, although nearly 400 screened-out Hmong were sent back to Laos in Phase I.

The reasons for the disappointing showing are numerous: attacks by Laotian resistance forces near resettlement sites in Laos, backtracking and intransigence by Lao officials, funding shortfalls on the part of UNHCR, and general reluctance on the part of the Laotian refugees in Thailand--and especially the Hmong--to go home.

At the fifth tripartite meeting between Thailand, Laos, and UNHCR held in Rayong, Thailand in mid-July 1992, the Thai government's impatience was evident. "The Laotian refugees have been residing in Thailand for a long time," said Gen. Charan Kullavanijaya, secretary-general of Thailand's National Security Council (NSC). "We have to reaffirm our principle that all refugees have to return home or be resettled in third countries. Thailand will not house them."

The Thai delegation reiterated its position that Ban Vinai, for more than a decade the largest camp for highland Lao in the country, would definitely close by the end of 1992, and that Chiangkham camp would be closed by the end of 1993.

Charan said Laotian refugees will face legal action in 1994 if any remain in Thailand. To underscore the seriousness of the government's intentions, Charan also announced the arrest of seven Laotians, three of whom were holding U.S. passports, as alleged saboteurs. It was later reported that the three U.S. citizens would be deported back to the United States.

A joint statement issued after the tripartite meeting noted that the Thai government "has issued instructions to local Thai authorities to prevent any movements or groups/individuals from engaging in activities which are against the repatriation."

"Bangkok clearly has decided to move against the Laotian resistance," a U.S. refugee official said. "As we know, Ban Vinai traditionally has been a staging area and recruiting site for the resistance. It is no accident that this is the first camp to be closed."

Thailand, Laos, and UNHCR also announced that they had set a new target to repatriate 6,000 to 10,000 people during the next 12 months. The only way to meet that goal, everyone agrees, is to make voluntary return for the Hmong a safe and dignified reality.

The Screened-Out A large majority of the 50,000 Laotians in Thailand have refugee status with UNHCR and thus are permitted to seek third-country resettlement or await voluntary repatriation. But about 2,500 Laotians, principally Hmong, are screened-out asylum seekers whose claims to refugee status have been rejected by Thai immigration authorities and, in most cases, UNHCR as well.

The screened-out are subject to return that may be involuntary but is carried out "without the use of force," according to the tripartite agreements. In the last twelve months, 770 lowland and highland Lao screened-out asylum seekers have been returned to Laos, including about 400 Hmong. The return of lowland Lao and non-Hmong highland groups has proceeded largely without incident or protest. The Hmong, again, are the exception.

From July 1985, when the Lao border screening program began, until June 1992, about 40,000 lowland and highland Lao have been interviewed for refugee status. In all, more than 77 percent (31,146 people) have been screened-in. Another 7,249 people were screened-out; the remaining cases were either pending or closed.

Until December 1991, screening for the highland Lao took place in Chiangkham camp and for the lowlanders in Nong Saeng, a detention center in the northeastern city of Nakhon Phanom. As of January 1992, all screening has been centralized in Nong Saeng. With screening now completed for nearly all Laotian asylum seekers in Thailand and new arrivals numbering only 22 since the beginning of the year, the program is phasing out.

Since it first announced the decision to close Ban Vinai two years ago, the Thai government has sought to hasten a decision by camp residents either to repatriate or to resettle in another country. In January 1991, a screening committee, comprising Thai immigration officials and UNHCR observers, began to interview some 5,040 "unauthorized" Hmong who had been living in Ban Vinai. The screened-in, it was understood, would be moved to Phanat Nikhom for resettlement processing, while the screened-out and voluntary repatriation cases would be moved to Na Pho, a camp that has traditionally housed lowland Lao.

In late August and early September of that year, however, MOI moved the entire number to Na Pho, prompting alarms from the Hmong community in the United States that the group was the victim of a "bait and switch" and would be forced back to Laos. In fact, observers confirmed to me, MOI and UNHCR feared that if they announced the results of screening while the group was still in Ban Vinai and moved the screened-in to Phanat Nikhom, the screened-out would simply disappear out of the camp and become "illegal immigrants" in Thailand or possibly join the resistance along the border.

Following the transfer to Na Pho, the screening committee announced that 2,394 people were screened in and 2,550 screened out. Most of the Ban Vinai screened-out immediately appealed to UNHCR for a review of their cases.

By the end of July, UNHCR had supported the appeals of 95 cases, comprising 235 people. Of these, the MOI had screened in 91 cases, or 216 people. Another 1,991 Hmong remained screened-out.

Hmong Protest Transfer to Nong Saeng In mid-July, frustrated at the slow pace of voluntary repatriation, MOI announced that on July 16, the screened-out Hmong in Na Pho would be sent to Nong Saeng unless they signed up for voluntary return. On that date, according to eyewitnesses in the camp, a group of about 1,500 to 2,000 Hmong demonstrated in front of the UNHCR of-

Nearly 2,000 Hmong protest outside the UNHCR office in Na Pho camp. Signs say, "No need to go to Nong Saeng. No need to go to Laos."

fice in Na Pho. Some carried signs saying, "No need to go to Nong Saeng. No need to go to Laos. Request to UNHCR-MOI for humanity."

"The demonstrators began showing up at about 10:15 am," one refugee program official told me. "We usually have about 20 guards in the camp and three policemen. By about 11:30 am, there were 40 to 50 uniformed men standing just inside the gate, carrying bamboo shields and batons. There were no guns, and they stayed in the background."

The Thai camp commander, Sati Phonyiam, "handled the situation well," the official said. "He told the group to go home, in exchange for which he would meet with their designated leaders. By 2:00 pm, the group had dissipated." Later, Sati met with leaders of the screened-out, who submitted a petition outlining 18 conditions for their return to Laos.

Within 24 hours, a group called the Lao Human Rights Council, headed by Dr. Pobzeb Vang, was circulating reports in the Hmong community that 1,300 Thai troops had entered Na Pho camp to arrest the Hmong and force them back to Laos.

"I have to believe this is deliberate misinformation," the refugee official said. "Communication back and forth with the United States is very easy."

In the week following the demonstration, all of the Ban Vinai screened-out group signed up for voluntary repatriation. "We signed so that we would not be sent to Nong Saeng," one Hmong put it simply, "but we still don't trust the Lao government, and we still don't want to go back."

"It is a tactical move," one MOI official said of the decision to transfer the screened-out Hmong to Nong Saeng. "The problem that we face right now is this," said Prapakorn Smiti, deputy director of MOI's Operations Center for

Displaced Persons. "We transferred all unauthorized Hmong to Na Pho. Genuine [refugee] cases we transfer to Phanat Nikhom if they want to resettle. If they are genuine and don't want to resettle, they stay in Na Pho. But if they are screened-out, they should go to Nong Saeng. When we tried to move people before, UNHCR asked for a delay of one month in order to promote voluntary repatriation. They had no success, so we had to make some decisions."

UNHCR officials say they would prefer that Nong Saeng be closed. "By the end of the year, UNHCR is not willing to pay for Nong Saeng," said one official in Bangkok. "We would prefer to have a refugee section and a non-refugee section in Na Pho."

Prapakorn was insistent that Nong Saeng would stay open. "The pipeline forms here [in Nong Saeng] back to Laos," he said. "You can't keep screened-in and screened-out together. Every time people volunteer [to repatriate] they get threats. We have set a target of 6,000 to 10,000 returnees during Phase II of Lao repatriation. We've got to start moving people."

But the screened-out Hmong will be permitted to stay in Na Pho for the time being, he said. "All of the people have signed up for voluntary repatriation, so I am willing to be flexible. No matter what happens, the screened-out will have to return to Laos anyway."

U.S. Still Interested in Some Hmong/Na Pho Cases Lionel Rosenblatt, president of Refugees International, visited Na Pho and Nong Saeng several days after the demonstration. "Some people who worked with U.S. forces in Laos were screened-out," he said, "and the U.S. government must play a vigorous role in looking into these cases."

That is being done, according to Martin Brennan, deputy counselor for refugee affairs at the U.S. Embassy. "We have been very active in the appeals process," Brennan told me in an August 21 interview. "We invited the Hmong community to use us as an intermediary with UNHCR and MOI. Two weeks ago, we started a process of reviewing individual cases with UNHCR. We are still in that process."

There are about 150 cases of interest to the United States still in Na Pho, said Brennan. "I think the screening process was fair, and the vast majority of decisions were credible. We are not trying to second-guess UNHCR or MOI, but we are trying to be responsible conduits for worried Hmong-Americans who are trying to follow up on their relatives."

What Do the Hmong Want: Repatriation or Resettlement? In the summer of 1990, the Ford Foundation funded a survey of 5,344 heads of family representing 28,992 refugees in Ban Vinai camp. Of those interviewed, 54 percent said they preferred to repatriate to Laos and 46 percent chose resettlement in another country. Neither choice, however, was without conditions.

Of those choosing resettlement, more than 70 percent said they would prefer to go some time after 1992, giving a variety of reasons for the delay. Some said that the elders in the family didn't want to go abroad. Others said they were waiting for relatives still in Laos, or were concerned about language and other adjustment problems in the United States.

Four out of ten respondents chose "other" as a reason for delaying resettlement. The report suggested that this was the chosen category "for those who will eventually resettle unless drastic political changes occur in Laos in the next year or two. These respondents have essentially given up hope that this will happen, but choose to wait nevertheless."

For those who chose repatriation over resettlement, the clear preference was likewise to "wait and see." Nearly 80 percent of this group said they were unwilling to return until significant political changes occurred, and another 5 percent said it was simply not yet safe to go back.

There are no longer 28,000 Hmong in Ban Vinai. With transfers to Chiangkham, Phanat Nikhom, and Na Pho, the official population now stands at 11,500. But UNHCR and voluntary agency officials who work in Ban Vinai say the real figure is around 6,000 to 8,000. Forced to choose between voluntary repatriation and resettlement, several thousand Hmong have opted to leave the camp instead. Their fate remains unclear, although sources say MOI will permit them to re-enter the refugee system until December.

Of those who remained in Ban Vinai, the preference increasingly is toward resettlement.

When UNHCR first began to interview the Ban Vinai population to determine their preferences, about 15 percent said they were interested in going to the United States, Brennan said.

"As they worked their way through camp, the percentage has been moving toward the norm, around 50 percent. Suddenly in August, the pendulum swung sharply, and now 95 percent are expressing an interest in going to the United States," he added.

In the first movement out of Ban Vinai in August, 458 Hmong elected to go to Phanat Nikhom where they are eligible to seek U.S. resettlement. Only 16 chose Na Pho and voluntary repatriation. One reason for this swing, Brennan suggested, was the recent decision by two senior Hmong leaders in the camp to seek U.S. resettlement.

If such a trend continues, said Dennis Grace, "I think there will be 13,500 Hmong in Phanat Nikhom by March 1993. That is on top of 3,500 in the camp who have already been approved for U.S. admissions next year. That gives you a pool of 17,000 Hmong for FY 93, and we hear talk of about 6,500" as a planning figure for FY 93 Hmong admissions.

Brennan confirmed the figure of 6,500 as a "projection for next fiscal year, but he cautioned that many of the recent arrivals from Ban Vinai "do not really wish to go to the United States. By going to Phanat, they keep all their options open. It's a very intelligent decision. The clock is ticking but it buys them time.

"We should not proceed as if everyone in Phanat is going to the United States and then put them in the pipeline," Brennan continued. "It's not in anyone's interests to move people to the United States who do not want to be there."

Grace agreed that "the interest in resettlement may be soft in Phanat, but it will firm up if nothing else happens on the repatriation side."

The Resistance May Be Key One of the frustrations for those promoting voluntary repatriation to Laos was the fact that as of June 1992, there were 2,000 Laotians in Thailand, including about 700 Hmong, who had applied to go back but were waiting for approvals or return schedules from the Lao side.

Several developments, all on the Lao side,

[Vue May, 55 years of age, was a camp leader in Ban Vinai from 1980 until 1991 when he fled to Bangkok following threats on his life. Formerly a supporter of the resistance, he now seeks to lead a group of Hmong voluntary returnees back to Laos. He spoke in Thai to Court Robinson about his hopes for the Hmong and for repatriation.]

When the Thai and Lao governments decided that the refugees had to go home, I wanted to help. The Lao came to talk to me about repatriation, and I agreed that people who didn't want to resettle in the United States--old people, long-stayers, people addicted to opium--should have the opportunity to return. There will also be many people who will not be eligible for resettlement in the United States--those without relatives, polygamists, opium addicts. These people too, I think, will be willing to go back, but they don't know where they will live.

I have promoted the idea to the Thai Ministry of Interior and the Lao government that they should allow the Hmong to go back in a group with their leaders, that they should allow us to build a 'model village' with schools, hospitals, jobs. I would like to build this project near the city of Vientiane. Up to 10,000 Hmong could live together. If they would let us do this, I think many Hmong would go back.

But if the Lao government tries to put us in the jungle, isolated, without houses, then the Hmong won't go back.

There are lots of people in Na Pho and Chiang Kham who are willing to go back but they are not willing to say so publicly. If they do, several things happen: MOI comes and says they must sign a paper that they could go back within a few days. The other thing is they get pressure from people in the camps. I had a firebomb thrown at my house for talking about voluntary repatriation in Ban Vinai. I felt it was no longer safe to stay there.

Two groups want the refugees to stay in Thailand. One is the resistance, and they are getting money from overseas to help in this effort. The other is local Thai officials who are also making money off the camps. Neither wants the camps to close.

contributed to building this backlog in Thailand. In a report prepared for the fifth tripartite meeting, the UNHCR branch office in Laos said funding shortfalls and staff shortages created "longer delays in processing applications and organizing movements."

Another "major factor in determining the speed of repatriation movements," the report noted, "is the special procedure for vettir [illegible] cations to four provinces in Laos." Sir [illegible] ber 1991, officials in four provinces- [illegible] Sayaboury, Bokeo, and Oudomxay--. [illegible] quired that all applications for repatr [illegible] have provincial as well as central gov[illegible] approval before any returnees are permitted to settle there.

The introduction of these "special procedures," observers note, corresponds with stepped-up guerrilla activity in the four provinces. "The resistance has been successful in rekindling the fears of the Lao government about repatriation," said a U.S. official.

New concerns about the returning refugees have also persuaded the Lao Ministry of Foreign Affairs to withdraw four potential sites in Vientiane and Oudomxay provinces from a list of proposed sites for group settlement. In their joint statement following the fifth tripartite meeting, Thailand, Laos, and UNHCR said they were all of the view "that repatriates should be prepared to return to areas suggested by the Lao government, in the case that they are not able to return to the locations which they previously chose."

Despite the delays and restrictions on the Lao side, "the sites are already there for repatriation," said the Embassy's Brennan. "Things have to start." The U.S. government would obligate the full $1.5 million that Congress earmarked this year for Hmong repatriation, he said. Brennan admitted some impatience with the process but said, "It's very likely that we underestimate the difficulty of accomplishing a breakthrough like taking the Hmong back." In this regard, he said, the resistance will be a "key element" in creating a climate for or against repatriation.

The Thai government appears to be taking steps to cut off the Laotian resistance once and for all. In an August 17 speech in Bangkok, Thai Foreign Minister Arsa Sarasin said, "Our recent action [to arrest seven suspected saboteurs] has left those supporters of anti-Vientiane insurgency without any doubt that only constructive cooperation with Laos will be allowed to launch from our soil."

That same day, he told *The Nation*, a Bangkok-based newspaper, that he would meet U.S. Ambassador David Lambertson for talks on [illegible] Lao resistance. "Washington should do more [illegible] oversee the activities of these people. Thailand values its relations with Laos, and we want to make sure that the resistance movement is a thing of the past."

That, too, is happening, said Brennan. "We are looking into possible violations of the Neutrality Act [which prohibits attempts by U.S. citizens to violently overthrow foreign governments]. We have to communicate to these people that the game is up: either you are a refugee in a camp preparing for resettlement or voluntary return, or you are not.

"We are in a stage where a lot of good things could happen," said Brennan, "or it could all just go flat. If it looks like voluntary repatriation isn't going to happen, then we will have to prepare for large movements of Hmong to the United States."

Recent Developments

FIRST GLIMPSE OF ASYLUM STATISTICS UNDER NEW SYSTEM

For the first time since April 1991, when the new asylum officers corps came into being at the Immigration and Naturalization Service, the INS has made public its statistics relating to receipt and adjudication of asylum claims.

This is a picture only of applications received during the first ten months of fiscal year 1992, beginning in October 1991. Not included are statistics regarding the 114,044 cases pending as of the beginning of April 1991, or the cases filed through the end of FY 91. (For a discussion of the new asylum officers corps system, see *Refugee Reports*, Vol. XII, No. 5 and Vol. XI, Nos. 3 and 7.)

During the first ten months of FY 92, 92,029 cases were received, about half of which--43,738--were filed at one office, Los Angeles. Of the total, 8.5 percent of the applications were returned as incomplete, so that only 81,155 were actually accepted. In that period, 15,451 interviews were actually conducted. Despite receiving nearly half of the applications, the Los Angeles office conducted less than a quarter of the total interviews, but more than any of the six other asylum offices.

Of the cases decided, the approval rate stood at 40.8 percent (3,218 approved; 4,669 denied). In the first half of FY 91, when cases were still decided by INS district directors, the approval rate stood at 31.3 percent. The highest approval rates under the new system were found in the Arlington, Va. and Los Angeles offices, where more than half the cases were decided favorably. The lowest approval rates were found in Newark and San Francisco, with 38.0 percent and 35.4 percent approved, respectively.

The approval rates could be skewed somewhat, simply because it is easier for an asylum officer to do the paper work on an approval (essentially, saying "yes") than on a denial, in which the reasons for denying need to be specified. Accounting for the lag time between processing approvals and denials, and based on the INS review of asylum officer assessment sheets, the true approval rate under asylum officers is probably closer to 35 percent than to 41 percent.

In addition to the 4,669 cases denied after applicants were interviewed, another 8,097 cases were closed, essentially representing those applicants who did not show for their scheduled interviews.

The Statistical Picture, by Nationality Guatemalans represent nearly half, 39,248, of the complete cases filed during this period. A distant second place goes to Salvadorans, with 4,914 cases filed. Persons from the former Soviet Union represent the next largest group, with 4,156, but INS no longer counts them as a single nationality. In descending order, the next largest groups with more than 1,000 asylum applicants are Haitians, Filipinos, Mainland Chinese, Cubans, Pakistanis, Indians, Nicaraguans, Romanians, "Yugoslavians", and Liberians.

Despite statements by high-ranking INS officials about asylum seekers from New Zealand bogging down the system with frivolous claims, only one "Kiwi" actually applied.

Asylum approval rates by nationality are not yet available for the first ten months of the fiscal year. However, reports from each asylum office for the month of July 1992 have been made available. Although of limited value, given the relatively small number of cases decided in a single month and the lag between grants and denials, the approval rate for selected nationalities provides a snapshot view of the relative standing of several nationalities:

China (PRC):	70.8	percent
Cuba:	31.8	percent
El Salvador:	14.3	percent
Ethiopia:	70.6	percent
Guatemala:	9.8	percent
Haiti:	30.2	percent
Iran:	27.3	percent
Lebanon:	17.0	percent
Liberia:	50.0	percent
Nicaragua:	5.5	percent
ex-USSR:	25.8	percent

ABCs, Backlogged Cases Although the numbers presented above relate to the universe of applications filed in the first ten months of FY 92, the total caseload includes the backlogged cases as well.

As of the end of July, the total pending caseload stood at 186,073, a number that grew by more than 15,000 in the month of July alone. The actual figure could, however, be even larger, as an estimated 30,000-35,000 cases from pre-FY 92 have not yet been entered into the Refugees, Asylum and Parole System (RAPS).

Gregg Beyer, the director of the INS Asylum Division, suggests that the total figure is not as daunting as it appears at first glance if one sees it as representing three distinct groups: current receipts; the backlog; and persons included in the *American Baptist Churches (ABC) v. Thornburgh* settlement (see *Refugee Reports*, Vol. XII, No 1). In fact, says Beyer, his office turned the corner on dealing with the large caseload by deciding to "break the asylum program workload into three smaller, more manageable component parts."

Of the 81,155 new applications, more than half, 44,162, were filed by Salvadorans and Guatemalans, the two nationalities covered by the *ABC* settlement. Given that about 50,000 Guatemalans and Salvadorans (who did not register for TPS) registered for *ABC* benefits, the INS believes that the overwhelming majority of the 44,162 fall within the *ABC* settlement. It is doubtful, however, that they are all *ABC*-eligible, as Salvadorans who arrived in the United States after September 19, 1990 and Guatemalans who arrived after October 1,1990 are ineligible.

Under a new procedure established on May 18 (see *Refugee Reports*, Vol. XIII, No. 5), *ABC*-eligible applicants will be treated separately, and, it seems, accorded a lower priority than other new applicants, so that, in effect, their cases will not be adjudicated for at least a year. That the INS is seeking to extend their employment authorization documents through June 30, 1994 is some indication that they are not due for a decision any time soon.

The INS has also been given a bit of breathing room by President Bush's decision to grant deferred enforced departure (DED) until at least June 30, 1993 for the 187,000 Salvadorans who registered for Temporary Protected Status (TPS) (see *Refugee Reports*, Vol. XIII, No. 5). INS sources indicate that they will be treating DED designees as if they were still TPS registrants, meaning that they will not be entered into the asylum adjudication process until their DED status has expired.

By the same token, the backlogged cases are being put off for the time being. Priority is being given to new applications, but if the asylum corps is able to keep up with the new cases, they will begin processing the backlog cases by early 1993. The next group due to be interviewed before the end of CY 92 would be persons in the pre-April 1991 backlog who had previously been interviewed under the INS district director system, but whose cases had not been decided prior to the institutionalization of the new system. The INS will likewise attempt to determine the whereabouts of un-interviewed, pre-April 1991 applicants, and intends to administratively close the cases of those who cannot be located. Nevertheless, given the size of the backlog, INS planners believe there will be need for a unit to adjudicate backlog cases. INS hopes to create a "backlog unit" that would begin work in FY 94, if funding is made available. (For more on the asylum backlog, see *Refugee Reports*, Vol. XIII, No. 1.)

37,000 Active New Cases Put in these terms, the third group, representing the roughly 37,000 new cases so far in FY 92, ought reasonably to be handled by the asylum officers corps, barring any unforeseen emergencies. The INS workload formula for asylum officers projects that the corps of 150 asylum officers will be able to adjudicate 80,000 cases per year, as of January 1993.

The calculation of "cases completed" currently includes "no shows," cases which are closed by virtue of nonappearance. Such cases, which account for about 25 percent of all scheduled interviews, now comprise 50 percent of total "cases completed." After January 1993, the INS does not plan to include "no show" case closings as part of the 80,000 per year adjudication standard.

The INS wants to complete new applications within 90-120 days of filing. If cases can be settled within this period, INS will not have to make separate work authorization determinations.

REPORT ON ATTACKS ON FREEDOM OF EXPRESSION IN MIAMI'S CUBAN COMMUNITY DRAWS LOCAL IRE

Failure to toe the party line can be a dangerous business, not only in Havana, but in Miami. An August 1992 report by Americas Watch and the Fund for Free Expression finds that Miami's Cuban exile community is "dominated by fiercely anti-communist forces who are strongly opposed to contrary viewpoints.... 'Moderate' voices within the community...are met with a variety of responses ranging from shunning to violence." "Ironically," the report adds, "in their attitude toward dissenting viewpoints, many anti-Castro Miami Cubans have a good deal in common with the regime they loathe."

Local officials and Cuban exile leaders in Miami reacted angrily to the report. According to *The New York Times*, the Mayor of Miami, Xavier

Suarez, threatened to sue Americas Watch for "libel and defamation."

The report, *Dangerous Dialogue, Attacks on Freedom of Expression in Miami's Exile Community*, documents numerous examples of intimidation and violence directed against individuals and groups who have voiced opinions that differ from those whom the report labels "the dominant intransigent forces in Miami's Cuban exile community." Among the many incidents documented in the report:

° In 1975, Luciano Nieves, who had written articles suggesting that Castro might be brought down 'politically', and saying that he would return to Cuba to vote if Castro called for an election, was shot and killed in a hospital parking lot.

° In 1976, after a radio broadcast in which he criticized bombings and assassinations in the exile community, a bomb went off in Emilio Milian's car, blowing off his legs.

° Giselda Hidalgo, executive director of a group that has criticized human rights abuse in Cuba, has also been critical of U.S. policy toward Cuba. She has received phone calls warning that she will be burned alive; her car has been doused with kerosene and set afire; and two men briefly abducted her three year-old son.

° On February 23 of this year, three men broke into the offices of a radio station that airs a program that offers a variety of viewpoints about Miami and Cuban affairs. They beat and tied up one of the employees and damaged the station's equipment.

The report examines the role that Spanish-language radio stations, the Cuban-American National Foundation (CANF), and the federal, state, and local governments have played in helping foster the climate of intimidation.

The largely Cuban exile-run radio stations, the report says, "are not open to the expression of moderate viewpoints.... [and] they unquestionably contribute to a more repressive climate for freedom of expression." The CANF, a powerful exile group led by rich businessmen with considerable influence from Washington, D.C. to Miami, is noted for its "strident criticism of those who disagree with its positions." According to a former CANF executive director, its leaders share some of the anti-democratic tendencies of the Cuban regime they seek to replace, the report said.

U.S. federal, state, and local governments also "cannot escape some responsibility for the climate of intimidation." The report criticizes "the response of government law enforcement agencies to criminal acts that have been aimed at those whose viewpoints do not coincide with those of the dominant intransigent forces.... While in the last few years there have been as many as a dozen bombings aimed at those who favor a more moderate approach toward the Castro regime, none has resulted in a single arrest or persecution." The Miami City Commission, the report says, "has consistently taken actions that associate it with violence and intolerance."

According to the *New York Times*, Mayor Suarez has demanded that Americas Watch retract what the Mayor called "false and malicious" accusations. One Cuban exile group accused Americas Watch, which has regularly reported on human rights violations in Cuba, of "pursuing an agenda that favors Castroism," the *Times* reported. The paper quoted Americas Watch Director Juan E. Mendez as saying that such accusations "merely confirm what we say in the report, which is that there is very little support of rational dissent" in the Cuban-American community.

REFUGEES IN THE FORMER YUGOSLAVIA

(*After attending the July 29 conference in Geneva on aid for victims of the war in the former Yugoslavia,* Refugee Reports *research associate Tom Argent traveled to Croatia, Slovenia, Bosnia-Hercegovina, and Macedonia to document the current situation of refugees and displaced persons in the former Yugoslavia.*)

After more than four months of calculated land grabs, vicious, indiscriminate bombardment, and targeted ethnic persecution, thousands of victims of the war in Bosnia-Hercegovina continue to seek shelter in republics of the former Yugoslavia. However, where once would-be refugees could expect an open reception, increasing numbers now face the prospect of not being able to escape the horror that has become Bosnia.

According to the UN High Commissioner for Refugees, more than 600,000 persons are currently displaced within Bosnia-Hercegovina. Another 700,000 have taken shelter in Croatia, Serbia, Montenegro, Slovenia, and Macedonia. The prospects for further dislocation, given the approaching winter and continued "ethnic cleansing," appear great; some predict 200,000 to 400,000 more refugees will flee. Unless delivery of food, heating, clothing and other material assistance is stepped up significantly, it is likely that tens of thousands more, without ever having had the opportunity to flee, will die in Bosnia this winter.

Refugees in Croatia Refugees who have entered Croatia have found, for the most part, a generous and open-armed reception. Although not permitted to work, registered refugees are eligible for assistance. According to government figures, more than 330,000 refugees from Bosnia are currently in Croatia. Most are in private homes, although increasingly the strain of this arrangement is leading some host families to request that their guests seek other accommodation. Red Cross agencies, Caritas, and Merhamet, a Muslim relief organization, direct most of their assistance to refugees in private homes, in the hope that refugees will be able to remain with host families, at least through the winter.

Those refugees not in private homes are in an assortment of hotels, hostels, barracks, and camps, many of which are not suitable for winter habitation. The Croatian government estimates that, *without further arrivals*, there exists already a deficit of winterized housing for some 70,000 refugees. In light of this, European governments are pursuing, with the help of the International Rescue Committee (IRC), plans to finance renovation of abandoned or un-winterized structures. Although the planning stages are well-advanced, little actual renovation has occurred to date.

Given the magnitude, and resulting financial costs, of the refugee influx, the Croatian government has become increasingly reluctant to allow more refugees to enter. On July 14, the government decided to permit only those refugees who could acquire a "letter of guarantee" (a financial sponsorship) to enter Croatia. For several

Sarina (left-center of photo) and her two sons are among the eight displaced persons taken into the home of Emina (back row, left) in southern Bosnia-Hercegovina. In recounting the story of her ordeal, Sarina told Refugee Reports, "I saw eight 15 year old kids killed in front of me. My son [pictured, to right of Sarina] was not killed because I could pay them [the Serbian forces]. They forced women to remove the bodies and wash the concrete because they didn't want the blood to be seen. They said, 'Take the garbage to the garbage.' My son doesn't speak at all anymore. It was enough to wear anything green [a Muslim color] to be mistreated. My husband had a chance to see those [death] lists. His name and my son's were on it. So he went to another village to live under another name-- but everybody in that area knew him. He just couldn't hide. I feel sorry that I at least couldn't go to find his body, to bury him at least." After reaching the Croatian border, Sarina and her two sons were refused entry by Croatian authorities because they did not have a "letter of guarantee."

Photo: USCR/T. Argent

weeks this policy was not universally applied. However, by early August, thousands of Bosnians unable to acquire such a letter were refused entry into Croatia, and many remain stranded on the Croatia-Bosnia border. It now appears that no refugees from Bosnia are permitted to enter without the required letter. In the small towns dotting the border region, accommodation in private homes is no longer possible, as all are full; many would-be refugees have no choice but to sleep on the ground at over-burdened Red Cross centers or in the busses in which they escaped. Here they wait for letters to arrive or, for those without hope of obtaining such letters, ponder what will happen to them, with no home to return to and no hope of receiving asylum in Croatia.

Just as troubling as the decision to close its border is the July 21 announcement by Croatia that it had reached agreement with the government of Bosnia regarding the return of refugees to "safe areas" in Bosnia. Although the agreement does not disclose a mechanism for the return of refugees, it does specify which refugees are to return: men ages 18-60 and women ages 18-55 without young children. In an interview with *Refugee Reports*, Adalbert Rebic, head of Croatia's Office for Displaced Persons and Refugees, indicated that, once the new Bosnian embassy (expected to open the week of August 17) had begun operating in Zagreb, there would likely be considerable and rapid movement on the return issue. In the scenario put forth by Rebic, Bosnia would indicate which areas it considers "safe"; Croatia would then be responsible for identifying refugees from those areas. As yet, no decision had been announced on just *how* refugees would be returned. When questioned about forcible returns, Rebic stated, "We bring back only the young people who want to go back and those who are really not resisting our attempts. We are not applying force at the moment." However, *Refugee Reports* is aware of allegations made by international staff of humanitarian agencies regarding forced returns of both men and women.

Refugees in Macedonia Unlike the attention focused on Croatia and Bosnia, Macedonia, the only independence-minded former republic not recognized by western Europe or the United States, receives little acknowledgement of its particular difficulties relating to the war, sanctions against Serbia, and its refugee population. Currently, some 31,500 refugees are registered in Macedonia: 28,500 from Bosnia, 2,500 from Croatia, and 500 from Albania. In large part because it has chosen to abide by international sanctions against Serbia, Macedonia is in the throes of an economic crisis more serious than that faced by the other "independent" republics. Although refugees are not permitted to work, it is unlikely many would find significant employment, given the economic situation.

Most of the Bosnian refugees in Macedonia interviewed by *Refugee Reports* entered Macedonia via Montenegro and Kosovo, although some came via Belgrade. Approximately 90 percent of the Bosnian refugees are accommodated in private homes. Even more so than in Croatia, given the particularly difficult economic climate, there are problems with keeping refugees in private homes for an extended period.

An official with the Ministry of Labor and Social Affairs told *Refugee Reports* that Macedonia no longer attempts to prevent any refugees, whether they be "draft age" men or unsponsored families or individuals, from entering Macedonia. However, officials from Merhamet indicated that they were still required to submit proof of accommodation before refugees could cross the border. The draft age male refugees with whom *Refugee Reports* spoke said they did not fear being returned to Bosnia by Macedonia. Said one, "Once we enter Macedonia, no one has any problems of that kind."

Refugees in Slovenia There are 70,000 registered refugees in Slovenia, 69,000 of them from Bosnia. As with other former republics, Slovenia's policy toward new arrivals has stiffened somewhat. According to UNHCR, Slovenia now permits only those individuals with close family members to enter, and does not permit draft age men to register as temporary refugees. (They are therefore not eligible for government assistance and not entitled to stay indefinitely.)

Just over 50,000 of the refugees are in private homes, many with family members or friends who live and work in the most prosperous of the former republics. Of the 18,000 refugees living in collective centers, some 11,000 are in centers in need of either sanitary or heating rehabilitation. As the government opted, in light of the summer tourist season, not to use hotels for refugee accommodation, there exists the possibility that new arrivals, if permitted to enter, could be housed in existing structures.

At the Geneva conference, Slovenia floated a proposal that four "safety zones" be established in Bosnia. These zones would become areas to which Bosnians would repatriate and in which Bosnians would receive humanitarian assistance. Given the earlier July 21 agreement between Croatia and Bosnia regarding refugee returns, it would appear that the three former republics "allied" against Serbian aggression are willing to use Bosnian refugees and displaced persons as pawns in their struggle both to resist Serbian gains and to rid themselves of the inconvenience and costs of hosting refugees.

AFGHAN REFUGEES IN IRAN SHORT-CHANGED BY WORLD COMMUNITY; IRAN INVITES WESTERN AGENCIES TO ASSIST

*[*Refugee Reports *staff writer Hiram A. Ruiz recently returned from a site visit to Iran, where he visited Afghan refugee sites and participated in a conference sponsored by the government of the Islamic Republic of Iran and the UN High Commissioner for Refugees (UNHCR).]*

The Iranian government, which for years shunned any nongovernmental organization (NGO) presence in Iran, has invited international NGOs to Iran to assist Afghan and Iraqi refugees and to help facilitate Afghan repatriation. The invitation came at a July 20-23, 1992 conference in Tehran attended by representatives of some 15 international NGOs, including three U.S.-based NGOs, more than 20 embassies, and numerous Iranian government and UNHCR officials. Following the conference, several of the private agencies indicated an interest in taking up the Iranians' offer.

Since Soviet troops invaded Afghanistan in December 1979, Iran has shouldered the burden of hosting one of the world's largest refugee populations with minimal international assistance. According to the Iranian government, there are nearly 3 million Afghan refugees in Iran (other sources dispute this figure, noting that 700,000 to 800,000 of the Afghans included in the 3 million figure were working in Iran before 1979, and that Iranian estimates of the number of refugees in both urban and rural areas appear high).

Whatever the exact number, Iran's treatment of Afghan refugees has been generous. It has granted them asylum, freedom of movement, permission to work anywhere in Iran, and access to social services and reduced-cost food rations on a par with Iranians. Nevertheless, Iran has consistently received far less international support than has Pakistan, which has been hosting some 3.2 million Afghan refugees. In 1991, when Kurdish refugees fled to Turkey and Iran, Turkey turned the refugees away while Iran allowed them to enter, yet the international community, including the United States, directed its assistance primarily to the refugees on the Turkish border. At the height of the crisis, for every aid dollar the United States spent on Kurdish refugees in Iran, it spent seven dollars on Kurdish refugees at the Turkish border.

According to Omar Bhaket, UNHCR's representative in Iran, "Instead of applauding the Iranians for their generous policy [towards refugees], the international community has punished them." According to many observers, that is largely due to political factors, such as the strained relations between Iran and the West, particularly the United States, throughout the 1980s. But, adds Bhaket, it is also partly because the type of assistance that Iran has provided, such as allowing them to settle and work anywhere in Iran and providing them food ration cards given to Iranian nationals, does not fit the pattern to which UNHCR and donors are accustomed.

Little Aid for Repatriation Now, lack of international assistance may be affecting the potential for Afghan repatriation from Iran. According to UNHCR, more than 600,000 Afghan refugees have repatriated from Pakistan this year, including some 100,000 who repatriated during the week ending July 12.

UNHCR is spending an estimated $2 million per week to assist Afghans repatriating from Pakistan. Several NGOs are also helping to rehabilitate villages in eastern Afghanistan to which

Afghan refugees at Shamsabad "guest city" (refugee camp) in eastern Iran. *Photo: USCR/H. Ruiz*

bilitate villages in eastern Afghanistan to which refugees are returning. But, to date, the estimated 2,000 Afghan refugees repatriating from Iran every day have not received any international assistance, either to return home or to resettle once back in Afghanistan.

An Iranian official told conference participants that the aid being given in Pakistan was inappropriate. "Leaving the refugees on the other side of the border with a few coins and some flour only perpetuates their impoverishment," he said. Nevertheless, the disparity in international aid to refugees repatriating from Pakistan and Iran is a sore point for Iranian officials, who, despite their criticism of the nature of the assistance being given, are asking the international community for "equitable treatment of Afghan repatriates...irrespective of their country of asylum."

Refugee Reports interviewed a number of refugees in camps, villages, and at a provincial capital in eastern Iran. All said that they were reluctant to go home at this time, primarily because they felt there is still too much insecurity in Afghanistan (several of those interviewed had recently visited their home villages), but also because there was nothing for them at home.

Iranian officials emphasize the need for rehabilitation programs in neighboring areas of Afghanistan as a way to build refugees' confidence about their livelihood upon return home. Despite this reluctance, *Refugee Reports* saw hundreds of refugees lined up at the main border crossing point between Iran and Afghanistan, waiting to clear their goods through Iranian customs before crossing the border. Although Iranian officials say the refugees are allowed to take all their possessions and cash savings, some refugees said that they were having trouble doing so. Other well-informed sources reported hearing of some refugees being forcibly repatriated.

Job Board

The International Human Rights Law Group seeks to fill the following two positions:

Human Rights Legal Officer, Latin America Duties include: assisting local groups in developing human rights advocacy skills, designing projects on human rights methodology, assisting lawyers and human rights groups in conducting litigation, and coordinating NGO initiatives to strengthen human rights protection by the OAS. This Washington, DC-based position involves frequent travel, knowledge of Latin American political and legal traditions, experience in the practice of law, and good knowledge of international human rights law. The position begins December 1. Salary: $2,500/month or commensurate with experience. Send c.v. and list of references by September 15 to address below.

Human Rights Project Attorney, Romania (six month contract) Duties include: expanding the network of Romanian lawyers interested in human rights and assisting lawyers' groups on election issues. Requires law degree, two years experience, excellent writing and communication skills, and command of English. Fluency in Romanian an asset. Salary: $2,500/month. Fax resume and list of references as soon as possible to number below. **Contact** Reed Brody, International Human Rights Law Group, 1601 Conn. Ave., NW, Suite 700, Washington, DC 20009. Fax: (202) 232-6731.

Staff Attorney or Professional Researcher- Writer Human Rights Watch seeks a full-time staff attorney or professional researcher/writer for its Women's Rights Project. Duties include: conducting fact-finding investigations, monitoring and researching violations of women's human rights under international law. This full-time, Washington, DC-based position requires experience in human rights and/or women's rights work, preferably at the international level. Position to begin by November 2. Salary is negotiable, depending on experience. **Contact** Cover letter and resume by August 31 to: Dionne Morris, Associate, Women's Rights Project, Human Rights Watch, 1522 K St., NW, Suite 910, Washington, DC 20005. No phone calls.

Director, Africa Watch Human Rights Watch seeks a director for its Africa Watch Division, who will be responsible for staff who monitor and promote human rights throughout sub-Saharan Africa. May be based in the New York headquarters or Washington office. Knowledge of Africa should reflect either residence in Africa or extensive travel and work or study in Africa. Position to begin by January 1. Starting salary for the position is $65,000. **Contact** Applications should be submitted to Aryeh Neier, Executive Director, 485 5th Ave., New York, NY 10017. Writing sample should accompany resume. Applications are sought by October 1.

Resources

USCC REPORT SAYS HMONG IN THAILAND ARE BEING PRESSURED TO RESETTLE

In a May 1992 report titled *Hmong Refugees in Thailand: The Case Against Forced Resettlement*, the United States Catholic Conference/Migration and Refugee Service (USCC/MRS) says that Hmong refugees living in Ban Vinai refugee camp in northern Thailand are "under strong and increasing pressure to choose either voluntary return [to Laos] or third country resettlement, and to make that choice sooner rather than later." That is because the Thai authorities are eager to close Ban Vinai as a means to help bring an end to the long-standing Hmong refugee presence in Thailand, the report says.

According to the report, most of the 18,000 Hmong at Ban Vinai "are qualified as refugees and eligible for resettlement in the United States," but that "unlike other Indochinese refugee groups, the Hmong have been less eager for third country resettlement." "However," the report adds, "Most are still fearful of returning home."

The report recommends that "Ban Vinai should remain open as a holding camp," that the United States should reaffirm "its indefinite commitment to the resettlement of Hmong refugees," and urges the Thai government continue to be patient with the Hmong refugee population. The report, written by Walt Grazer and Shep Lowman, is available from USCC/MRS, 3211 4th St., NE, Washington, DC 20017-1194.

ASYLUM PRE-SCREENING SPECIAL OPERATION
(FY 1992: Guantánamo Bay, Cuba)

Month	Interviews Conducted	Persons Screened in	Persons Screened out
Total FY 1992	**36,596**	**10,319**	**26,277**
November 1991*	3,328	302	3,026
December 1991	4,475	1,420	3,055
January 1992	3,717	1,583	2,134
February 1992	6,407	2,097	4,310
March 1992	1,659	838	821
April 1992	3,091	664	2,427
May 1992	7,580	2,540	5,040
June 1992	6,339	875	5,464

**Data for October 1991 are included in November. Interdictions and interviews, following the September 30, 1991 coup, began on October 28, 1991.*

Source: U.S. Immigration and Naturalization Service

REFUGEE REPORTS is published monthly for $40.00 per year for one subscription, $30.00 each for two or more subscriptions to the same addressee, or $25.00 each for ten or more subscriptions requested at the same time, mailed to separate addresses; overseas postage is an additional $24.00 for second class or an additional $75.00 for airmail; by ACNS, 95 Madison Avenue, Third Floor, New York, NY 10016. Second Class Postage paid at New York and additional mailing offices. POSTMASTER: send address changes to *Refugee Reports*, Sunbelt Fulfillment Services, P.O. Box 41094, Nashville, TN 37204.

Editorial comments and inquiries should be sent to : *Refugee Reports*, 1025 Vermont Avenue NW, Suite 920, Washington, DC 20005. All communications regarding subscriptions should be sent to: *Refugee Reports* Subscriptions, Sunbelt Fulfillment Services, P.O. Box 41536, Nashville, TN 37204. (615) 377-3322.

Basic subscription rate for 12 issues per year: $40.00; Multiple-copy rate: $25.00; Single copies of back issues: $4.00
Co-Editors: Bill Frelick and Virginia Hamilton; Staff Writers: Court Robinson, Hiram A. Ruiz, Jeff Drumtra, and Tom Argent.
Distribution Manager: Raci Say; Production Coordinator: Koula Papanicolas
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Refugee Reports

A News Service of the U.S. Committee for
Refugees, a Project of the American
Council for Nationalities Service
Sunbelt Fulfillment Services
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Refugee Reports

A News Service of the U.S. Committee for Refugees
1025 Vermont Avenue NW, Suite 920 Washington, DC 20005 (202) 347-3507

Volume XIII, Number 9
September 30, 1992

CANADA TIGHTENING REFUGEE LAW, TAKES STEP TOWARD TURNING ASYLUM SEEKERS BACK TO THE UNITED STATES

Refugee advocates in the United States have often looked wistfully at Canada as a model of generosity in the determination of asylum claims. However, the Canadian government introduced a bill (C-86) into Parliament on June 16 that has caused a strong, negative reaction from Canadian advocacy groups, suggesting that Canada could be retreating from its commitment to a system based on independent asylum adjudicators.

Also of concern on both sides of the border are the discussions taking place between the governments of Canada and the United States to forge agreements that apparently would prevent most asylum seekers from transiting through one country to apply for asylum in the other.

Bill C-86 is a comprehensive measure, numbering 113 pages, with 128 sections. It deals broadly with a number of changes in Canadian immigration, including tightened enforcement and control measures, such as sanctions on airlines for carrying improperly documented passengers, fingerprinting of asylum seekers, and higher fines for smuggling of undocumented aliens.

But C-86 would also introduce major changes into Canada's asylum procedure. (See *Refugee Reports*, Vol. XI, No. 10 for a description of the existing procedure.) The bill would eliminate the credible basis hearing, a first hearing at which an adjudicator from the Canadian Employment and Immigration Commission (CEIC)--the equivalent of the U.S. Immigration and Naturalization Service (INS)--and a member of the Convention Refugee Determination Division (CRDD) from Canada's Immigration and Refugee Board (IRB), an independent tribunal, determine the asylum applicant's eligibility and credibility for a full refugee status determination hearing.

This assessment is currently based largely on the human rights record of the applicant's country of origin. If either the CRDD member or the CEIC adjudicator believes that a credible basis exists for the claim, it proceeds to a second hearing, known in Canadian parlance as "the full hearing."

IN THIS ISSUE:

Introduction of a new immigration bill in Canada could lead to serious changes in Canadian asylum determination procedures, as could discussions between the U.S. and Canada on returning asylum seekers. Staff writer Bill Frelick reports 1

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After living for several years in a sanctuary in the U.S., a Guatemalan woman finally decides that the only hope for her family's future lies across the border in Canada. (Ambassador Bridge, which crosses the Detroit River, is in the background.) *Photo credit: Ann Healey*

In the first half of 1992, the referral rate from first to second hearing stood at 95.7 percent, about the same as it has been on average since the present adjudication procedure came into effect in 1989. In the overwhelming majority of cases, Canadian Immigration concedes the "credible basis" of the applicants.

One key factor contributing to the high rate of referral from the first hearing is that the CRDD/CEIC panels have not been able to rule asylum applicants as ineligible for a full hearing if they resided in a "safe third country" before they arrived in Canada. The law establishing the present system included a "safe third country" provision, but the government was unable to decide what countries should be designated as "safe" (largely as a result of controversy over whether or not the United States would be so designated, given its track record in denying asylum to certain nationalities).

Under the proposed revision of law, the CRDD member would no longer participate at the initial credibility/eligibility stage. Under C-86, an immigration officer at the port of entry would have authority to make the initial ruling on the eligibility of the claim.

Testifying before the legislative committee studying bill C-86 on July 27, Bernard Valcourt, the Minister of Employment and Immigration, said that "senior officers will have the responsibility of assessing each claim against five basic criteria at the moment of the claimant's arrival in Canada." The five criteria include such disqualifying circumstances as a third country having recognized the applicant as a refugee or an applicant repeating an asylum claim ~~within 90~~ days of an earlier, rejected claim.

Valcourt said, "Assessing a claim against these criteria will require no subjective judgment, analysis, or interpretation by the officer. The criteria will be clear cut."

On the other hand, the Canadian Council for Refugees (CCR), an umbrella group representing many local groups assisting asylum seekers, submitted a brief to the legislative committee on C-86 saying, "The danger that is looming, one from which Canada so far has been virtually free, is turnarounds, real refugees turned around on arrival without access to anyone except immigration officials."

The CCR brief recognizes that the new system does not mandate such turnarounds, but predicts "once all checks to official abuse disappear, such turnarounds are bound to happen."

Managing Immigration The government claims that the change to a single hearing will reduce system delays by three to six months. Currently, most new claims are decided within six to twelve months. The government's goal is to process all claims within six months.

The emphasis in Canadian government presentations of the new law has been on "streamlining" the refugee determination system as part of a larger goal of "managing immigration." Valcourt told the legislative committee, "Today, as many as 80 million people are on the move throughout the world in search of new homelands.... How well Canada manages the impact of these pressures on its immigration and refugee systems will determine how well we are able to preserve the integrity of this vital national program."

The CCR brief said, "Refugee protection is about neither immigration nor management.... Managing immigration in a refugee protection context means artificially denying protection to real refugees."

All agree that a balance needs to be struck--one that ensures fairness and adequate protection, on the one hand, and efficiency and effectivenes on the other--in determining refugee status.

The degree to which generosity figures into this balance is open to question. One aspect of the current system that has resulted in giving the applicants the benefit of the doubt has been the use of two-person panels, under which a positive decision by either one has been sufficient to move the applicant's claim forward. This occurs both in the first hearing, where a positive decision by either the CRDD member or CEIC adjudicator moves the claim to the full hearing, as well as in the full hearing, in which a positive decision by either of two CRDD members has been sufficient to grant refugee status.

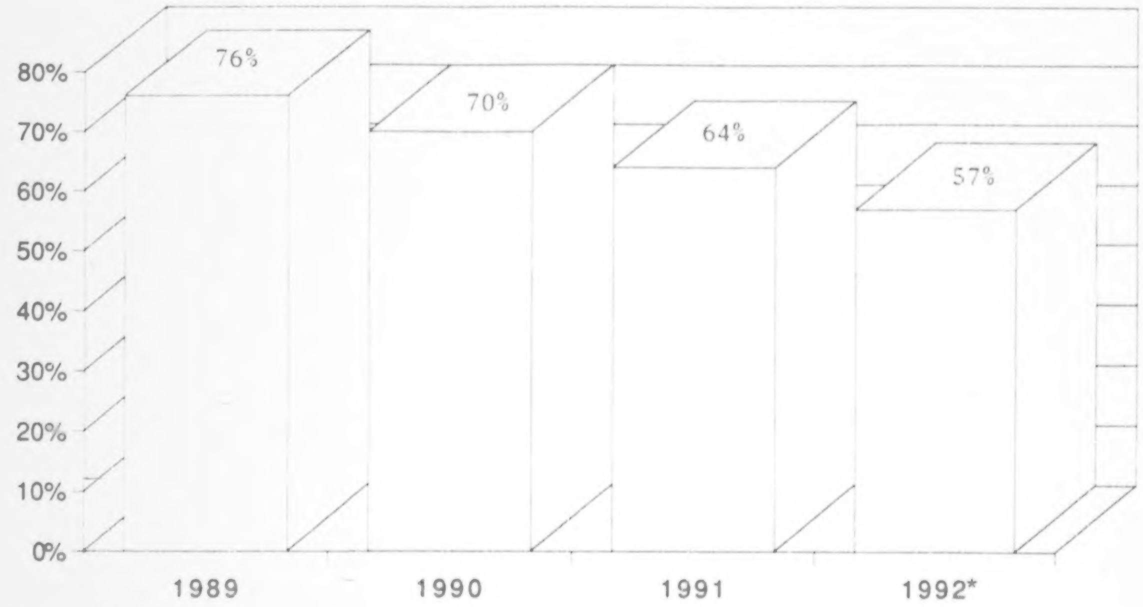
Under the proposed change, not only will the first hearing be dropped entirely and the CRDD excluded from that initial inquiry process, but unanimity will be required under certain circumstances at the full hearing. Both CRDD panelists will have to agree in cases of applicants under three circumstances: those who arrive without identity documents; those who have returned to the country of feared persecution while their case is pending; and those whose nationality is from a country designated as safe.

The CCR brief contends that the safe country of origin in C-86 "is not a country determined in an individual case to be safe. It is a country simply designated as safe." The brief calls the rule on documents "particularly pernicious because it takes a fact that would normally corroborate a claim and turns it into a reason for denying a claim." It points out that refugees fearing being returned to persecution will destroy or dispose of identity documents. "This provision," argues the CCR brief, "in microcosm, shows the clash between immigration management concerns and refugee protection concerns."

Other streamlining measures include reducing the current appeal procedure for negative decisions from consideration by a three-judge panel of the federal court of appeal to a single judge in the lower trial division of the federal court.

The Toronto-based Inter-Church Committee for Refugees said that "the lack of a meaningful appeal already makes the law incapable of guaranteeing refugees protection from the threat of wrongful deportation." It said appeals have been denied for victims of torture and that an insufficient number of judges has meant limited

CANADIAN ASYLUM APPROVAL RATES DECLINE



* *First six months.*
Source: Canadian Immigration and Refugee Board.

access to appeals. "The proposals do not touch these serious problems," it said.

Removals One of the key issues dividing proponents and opponents of C-86 is how effectively and under what circumstances persons found not qualifying for refugee status are deported from Canada. In the Immigration and Refugee Board's *1990 Annual Report*, Gordon Fairweather, its chairman, wrote that "the key to success of the refugee determination system is sending clear signals to the international community that Canada will not tolerate abuses to the system. Without the deterrent factor represented by timely removals, the caseload will only continue to expand past the ability of the CRDD to cope, no matter what efficiencies are introduced in the system or new resources applied to it."

In 1991, Canada Immigration removed more than 4,400 people from Canada, 1,600 more than were removed in 1990, and 2,000 more than were removed in 1989. In April, Valcourt announced that "during January and February of 1992, a total of 1,202 persons were removed, already half the total for all of 1989." Valcourt credited the doubling of removals to the introduction of the present refugee determination procedure in 1989 and improved enforcement provisions.

A July 1992 study by the Jesuit Refugee Service, entitled *Integrity and Canada's Policy of Removing Refugees*, shows "a significant increase in deportations back to countries that continue to have or previously had some of the highest refugee acceptance rates."

The study found that between 28 and 50 percent of asylum seekers deported to their home countries in the past three years were returned "to the countries that have traditionally produced the greatest number of claims and have had the highest rates of acceptance as refugees." Among the people deported to the 20 top source coun-

U.S. Assistance Groups Cite Dangers of Canada's Asylum Bill

For many, the first step in seeking asylum in Canada is a "border presentation," where the asylum seeker arrives at a border and declares her/himself to be seeking asylum. Often, if this is the individual's first contact with Canadian Immigration, the applicant is given an appointed time--perhaps one to two weeks later--to return to the border for a scheduled presentation. Assuming the asylum seeker is not rejected out of hand, the individual is instructed to report to a Canadian Immigration office to take up the first inquiry--the "credible basis hearing." It is only at the time of this hearing that the asylum seeker may enter and remain in Canada, pending the outcome of her/his asylum application.

During the three to four week wait for that hearing, the asylum seeker must remain in the U.S. For many, this means staying in border cities such as Buffalo and Detroit. Here, asylum seekers in need of housing, food, medical care, counseling, and legal advice are assisted by organizations such as *VIVE*, in Buffalo, and, in Detroit, the Detroit/Windsor Refugee Coalition (D/WRC).

A benefit to asylum seekers of the present system is that at the conclusion of the border presentation, their names are given to legal aid groups in Canada. The asylum seeker may then have access to a Canadian lawyer while waiting in the U.S. for the hearing. Furthermore, first hearings are commonly adjourned without action to give the asylum seeker an additional opportunity to meet with a lawyer. But because Bill C-86 would eliminate the first hearing, refugee advocates are concerned that asylum seekers could lose all contact with legal counsel in Canada.

According to Susan Balbin, Border Coordinator for D/WRC, "When they take away that inquiry, a decision of eligibility will be made at the border--without access to a lawyer. And a life-saving decision could depend on a Canadian official's first impressions and how clearly the refugee expresses her/himself in a 90-minute interview." The emphasis of C-86 on expediting the asylum process may result in bona-fide refugees, with access only to immigration officials at the port of entry, being refused entry to both Canada and the Canadian legal system.

One way around the lack of access to counsel that C-86 would impose would be for Canadian lawyers to come to the U.S. to meet with asylum seekers before they present themselves at the border. However, it is uncertain if provincial governments would be willing to foot the bill for large-scale, cross-border legal aid. Says Balbin, "It's possible that the province of Ontario might be willing to fund lawyers going to Detroit, whereas the province of Quebec might not be willing to pay lawyers to go to Plattsburgh [New York]. This would create an unusual situation wherein asylum seekers at one port of entry might have more options open to them than asylum seekers at another port of entry."

In Buffalo, *VIVE*, the largest of the border aid organizations, has assisted an average of 260 persons per month in 1992. *VIVE* expects to serve more than 3,500 people this year. This would be twice the number of asylum seekers assisted in FY 90. The increase in the past few years is largely due to Canadian Immigration's insistence that more asylum seekers wait for longer periods (some up to six weeks) in the U.S.

The Reverend John Long, Director of *VIVE*, predicts that if C-86 is adopted and a "safe third country" agreement reached with the U.S., organizations such as his will be swamped: "If they do implement this and close the border in the near future, we anticipate we will have a terrible crisis here." Reverend Long believes that some asylum seekers may try to arrive ahead of any announced border closing. Should this happen, he expects *VIVE*'s capacity to be exceeded: "We might be capable of handling 300 people on a given night -- with a lot of help from our friends. But I can foresee at least 400 to 500 people in need of assistance if they don't make it where they were headed when the border closes." Reverend Long added that if C-86 becomes law, *VIVE*'s work "may be with rejectees coming southbound out of Canada," rather than with those waiting for Canadian hearings.

A Somali woman enjoys a peaceful moment with her grandson while staying at a shelter while waiting to enter Canada.

Photo Credit: Ann Healey

tries of asylum seekers to Canada, 55 percent were sent to their country of origin, including countries such as El Salvador, Guatemala, Iran, Ethiopia, China, Sri Lanka, and Lebanon. This trend has increased in each of the past three years, the report notes.

The Jesuit Refugee Service report argues for re-establishing a list of unsafe countries to which persons should not be deported based on generalized violence or gross violations of human rights. Such a list, called the B-1 list, was abolished in February 1987 (see *Refugee Reports*, Vol. VIII, No 3). The study observes that most of the countries included on the B-1 list remain among the top source countries of asylum seekers to Canada.

"Safe Third Countries": A U.S.-Canada Agreement on Return of Asylum Seekers? A Canadian government white paper entitled *Managing Immigration: A Framework for the 1990s* suggests the Dublin Convention, a European initiative, as a model that should be followed in North America. It says that under the Dublin Convention, "a number of European countries have agreed that the first country entered by a claimant will accept responsibility for considering the refugee claim."

It goes on to note that "an agreement of this kind with the United States would be of particular interest to Canada," and says that about one-third of the asylum seekers coming to Canada arrive via the United States.

Forging such an agreement with the United States has proceeded beyond the level of wishful thinking. On July 27, Valcourt told the legislative committee studying C-86, "We are currently discussing such an agreement with the United States in order to better share the responsibility between our two countries in the determining of refugee status."

Valcourt said that such an agreement with the United States "will help ensure that we can provide better and faster protection for those who choose Canada as their first country of asylum."

But because of Canada's geographic location--bound on three sides by ocean and the arctic circle and on the fourth by one country, the United States--few refugees will be able to choose it as their first country of asylum. If Canada concludes such agreements with the United States and European countries (in which many asylum seekers have stopovers on flights to Canada), its caseload is likely to decrease significantly.

The bill authorizes Canada to enter into agreements with countries such as the United States for determining which is responsible for adjudicating an asylum claim. Such states have to be determined to comply with Article 33 of the Refugee Convention, which prohibits *refoulement*, the forced return of refugees, and to respect due process rights for asylum seekers. Countries meeting this standard will be added to a list of countries designated as "safe". Countries are to be designated as "safe third countries" for two-year, renewable periods. Immigration officers at ports of entry will consult the list when determining the claimant's eligibility to file an asylum claim in Canada. A person coming from a safe third country will be considered ineligible whether or not he enters Canada with proper travel documents.

The UN High Commissioner for Refugees (UNHCR) advised the Canadian government on June 12 that "the 'listing' of a safe third country should [not] exclude the possibility that an individual, because of his or her particular circumstances, has good reason to fear return to another country. UNHCR believes that case by case determination of such issues is essential, and recommends that these provisions be reconsidered."

U.S. Government Says Discussions with Canada Are "Underway," but "No Firm Commitments" The U.S. government has been following the European debate on the Dublin Convention closely. At meetings in Lisbon this summer, a draft convention was circulated informally that would expand the Dublin Convention beyond the EC states. Someone from the U.S. embassy in Lisbon attended that meeting. U.S. government sources see this as a long process, however, and U.S. accession to any such treaty as a distant prospect. U.S. government sources note that the Dublin Convention itself has not yet been ratified by the EC states.

The United States and Canada could arrive at a bilateral agreement along the lines of the Dublin Convention sooner, however.

"A bilateral agreement of this sort would set up a procedure for determining which country is responsible for hearing the asylum claim of applications lodged in one of the two systems," said a U.S. government source. The source explained that this agreement, in essence, would mean that "the country where the asylum applicant first arrived--even if he or she did not apply for asylum in that country--would be the country responsible for adjudicating the claim."

Although discussions with Canada are "currently underway," according to the source, "at this point, no firm commitments have been undertaken."

It appears that an attempt will be made to forge an agreement at the administrative level through a memorandum of understanding between the two countries.

Such an agreement would likely reduce the Canadian asylum caseload more than the U.S. one in the short term, since most of the people involved transit from the United States to Canada.

"It is our view that there is a long-term mutual benefit in cooperation of this sort," said the source, "that cannot be measured by the immediate statistical benefit either system may receive in the short-term." Sources express the hope that in time such agreements would change migratory patterns of asylum seekers.

"The purpose of such an arrangement is to reduce the incidence of forum shopping by asylum seekers and the duplication of efforts of governments in having multiple systems hear the same asylum claim," said the source. "In times of large backlogs and costly asylum systems, we hope that arrangements of these sorts will help reduce the strains on these systems so that they are available in a timely way for those who truly need them."

Refugee Rights Advocates Warn of Implications for the U.S.-Canada Border Currently, asylum seekers entering Canada from the United States can be turned back if they have resided in the United States. Under the new law, simply arriving from the United States would, in itself, be sufficient ground to the turn the claimant back.

A recent article on the proposed law in the Canadian newsletter, *Refugee Update*, notes the change, saying that senior immigration officers "will be able to determine in a matter of minutes after a person's arrival at a port of entry that the person is ineligible and therefore will not be allowed to enter Canada."

The turn-backs to the United States could have wider implications. Nancy Worsfold, CCR's executive director, told *Refugee Reports* that the new policy would likely bring significant changes to the U.S.-Canada border. "Because it has always been legal to come, we have never seen a controlled, militarized border. Now we can expect an undocumented flow to Canada of people trying to cross illegally, which, in turn, will change our government's response. It can't be considered a good thing for anyone." (See box, page 5.)

Updates

- President Bush authorized an emergency allocation of $14 million on August 17 to help repatriate 250,000 Angolan refugees, most of whom are waiting to return home from Zaire and Zambia.

The $14 million U.S. expenditure comes from the Emergency Refugee and Migration Assistance (ERMA) fund. The money will go to the United Nations High Commissioner for Refugees (UNHCR), which had appealed to international donors in June for $55.3 million to support Angolan repatriation. Prior to the U.S. contribution, UNHCR had received a meager $2 million in pledges for the repatriation project.

Some 400,000 Angolan refugees are living in Zaire, Zambia, and Namibia, and UNHCR officials expect 250,000 of them to repatriate in the next 12 months. Repatriates under the UNHCR program will receive transportation home and six months of food, plus blankets, lanterns, kitchen utensils, and temporary medical services. The UNHCR budget also includes seed money for demining efforts to help clear thousands of unexploded mines remaining in the aftermath of Angola's civil war.

Angolans fled their country during 16 years of civil war, which ended in May 1991.

- President Bush authorized $27.2 million in emergency assistance to refugees and displaced persons in former Yugoslavia, Somalia, and Mozambique on August 25 from the Emergency Refugee and Migration Assistance (ERMA) fund.

The president earmarked $12 million of ERMA funds to aid victims of the conflict in the former Yugoslavia. The money, allocated to the United Nations High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross (ICRC), and UNICEF, will fund shelters and other protection from the onset of winter weather.

Another $13.2 million went to aid Somali refugees and displaced persons. The allocation includes $10 million to the ICRC for its food delivery operations in Somalia, and $3.2 million to the United Nations Special Emergency Fund for the Horn of Africa for logistics and infrastructure work in Somali relief efforts.

In addition, $2 million in ERMA funds went to support ICRC's intensive feeding program in Mozambique.

- Amb. Warren Zimmermann, the director of the State Department's Bureau for Refugee Programs, has been named as the U.S. representative to the peace talks to stop the fighting in Bosnia and Hercegovina. Zimmermann served as U.S. Ambassador to Yugoslavia before assuming his present post.

- On August 29, some of the remaining Haitian asylum seekers at the U.S. naval base at

Guatánamo Bay, Cuba set fire to their living quarters, apparently demanding to be repatriated.

The protesters, numbering about 63 out of the remaining 233 Haitians at Guatánamo, are people who have already established a credible fear of persecution in Haiti, but who have not been permitted to enter the United States to pursue their asylum claims fully because they tested positive for HIV, the virus associated with AIDS (59 out of the total are relatives of people who tested HIV-positive).

The Immigration and Naturalization Service (INS) had intended to give them full-fledged asylum interviews at Guantánamo and waive the exclusion ground for those who qualified as refugees. But a federal court has ruled that these Haitians have a right to an attorney for such interviews. The Service is appealing that decision. This leaves the Haitians at Guantánamo in a legal limbo because the court order says they cannot be repatriated without first having the benefit of legal counsel.

On September 4, the INS decided to grant humanitarian parole to four of the HIV-positive Haitians on medical grounds.

- The American Friends Service Committee (AFSC), the League of United Latin American Citizens (LULAC), and two Mexican human rights organizations have petitioned the Organization of American States (OAS) complaining that the INS and U.S. Border Patrol use excessive force on the U.S.-Mexico border.

Peter Schey, attorney for the petitioners and the executive director of the Center for Human Rights and Constitutional Law, said that groups and individuals who complain of abuse have not been able to afford the high cost of litigation in U.S. courts. He also noted that migrants are reluctant to file claims against the INS because they fear arrest and deportation. The petition calls on the Inter-American Commission of the OAS to declare U.S. practices in violation of the American Declaration of Rights and Duties of Man and to ask that the United States pay damages to individual petitioning parties whose rights have been violated.

The AFSC has recently published a study documenting excessive use of force on the border, *Sealing Our Borders: The Human Toll* (see Resources).

- The House Judiciary Committee approved a bill that would establish "pre-inspection" stations at certain foreign airports. The bill, H.R. 5555, would cut down on the number of people who arrive in the U.S. without proper travel documents, and then request asylum. The bill would require the INS to begin operating stations within two years at three of the ten airports used by the greatest number of U.S.-bound travelers. The full House is likely to consider H.R.5555 before adjourning for the fall campaign season.

- The U.S. Senate has included $350,000 in an appropriation bill (S. 3026) for FY 1993 to be paid to the government of Mexico for the repatriation of third-country nationals from Mexican custody to their home countries. In the past, money was made available to Mexican immigration for this purpose through non-appropriated funds at the disposal of INS. In 1991, 133,000 people were deported by Mexico, most of them pushed across the border into Guatemala. The bill is pending a conference committee to resolve differences between the House and Senate versions.

- On September 4, the UN appealed for $434.1 million to "avert a looming humanitarian disaster" in the former Yugoslavia. The appeal includes funds for the World Food Program ($186.1 million), UNHCR ($164.3 million), UNICEF ($42.5 million), and the World Health Organization ($39.8 million), among others. The new appeal is only for "life-threatening priority needs" over the next seven months. Total needs over this span are estimated at more than $1 billion. UNHCR alone faces a shortfall of $120 million for its work in the former Yugoslavia since November 1991.

- An Italian military plane that crashed September 3 while on a humanitarian mission to Sarajevo was struck by at least one missile, according to a preliminary Italian government report released September 16. The United States government reports that one of the four U.S. helicopters that went to the aid of the downed plane was struck by a single small calibre round before returning to base aboard the USS Iwo Jima in the Adriatic. Crew aboard the helicopters reported seeing groundfire before returning to the Iwo Jima, but damage to the helicopter was not detected until well after the incident.

- More than 40,000 Liberians and Sierra Leonean refugees have poured into Monrovia following renewed fighting in western Liberia. The fighting is between Charles Taylor's National Patriotic Front of Liberia (NPFL), the group whose drive to topple the late president, Samuel Doe, sparked the Liberian civil war, and the forces of the United Liberation Movement of Liberia for Democracy (ULIMO), a newer, Sierra Leone-based guerrilla group comprised primarily of Liberian refugees and former Doe supporters.

The UN Special Coordinator for Liberia, Ross Mountain, said that 15,000-20,000 newly displaced persons arrived in Monrovia on just one day, August 23. Many are Liberians, but some are Sierra Leonean refugees who have been living in western Liberia since mid-1991, when NPFL forces and Sierra Leonean rebels invaded Sierra Leone.

The recent fighting, which appears to have been at least in part for control of diamond mines that have been one of the NPFL's main sources of income, came a week after the collapse of the latest round of talks in the two-year effort to find a political solution to the Liberian crisis. The talks involve the NPFL (which controls most of Liberia); ULIMO; the Economic Community of West African States (ECOWAS), which sent a peace-keeping force to Liberia in 1990; and the ECOWAS-installed Interim Government of Liberia, which governs only in Monrovia, the Liberian capital.

- Germany has been shaken in recent weeks by a series of attacks on hostels for asylum seekers, particularly in regions of the former East Germany. More than 1,000 neo-Nazis converged on the Baltic port city of Rostock with the specific aim of attacking the hostel, which houses mostly Vietnamese asylum seekers. The mob hurled Molotov cocktails at the hostel. Similar incidents were reported in Leipzig, Görlitz, Stendal, Schwerin, Neubrandenburg, and Eisenhuettenstadt.

A total of 187,455 persons have applied for asylum in the first six months of the year, a new record, according to the Federal Ministry of the Interior. The total in 1992 could double the 1991 record of 256,000. This is based on a comparison with the first six-months asylum receipts in 1991, numbering 90,769, less than half the number of applications received in the first six months of this year. The largest group in the first six months of the year originated from the former Yugoslavia, numbering 72,415.

Feature

MON REFUGEES IN THAILAND SEEK STABILITY

As the monsoon rains abate on the Thai-Burmese border, fear is mounting that the dry season will bring a heavy assault by the Burmese army against ethnic minority insurgents fighting a long-running civil war for self-determination. The next offensive could send tens of thousands of new refugees--Mon, Karen, and ethnic Burmans alike--fleeing for safety into Thailand. Their welcome is anything but certain. Earlier this month, Court Robinson visited Loh Loe, inhabited by nearly 10,000 Mon, making it the largest Burmese refugee camp in Thailand.

Loh Loe camp sits eight kilometers up a tortuous logging track, hard by the Burmese border in the Thai district of Nonglue, an apt name, given that the Mon refugees have been moved three times in the last three years and may yet be moved again. Burmese army offensives in early 1989 forced the Mon to leave their homes in the strategic border town of Three Pagodas Pass. About 10,000 refugees settled up the road toward Sangklaburi before Thai authorities moved them to seven scattered camps. Those camps were, in turn, consolidated to six in 1991, then to three in April 1992, Loh Loe being an amalgamation of four settlements. In that period, the total number of Mon refugees in Thailand grew to about 12,000.

Each time that Thailand has moved the Mon camps, it has been away from Thai towns and toward the Burmese border. Loh Loe can be pushed no farther, except into Burma itself. But despite their precarious state, the Mon have responded with resilience and energy.

Largely built in the last four months, with limited outside help, Loh Loe already boasts two primary schools and one high school, two hospitals, and four Buddhist monasteries. Construction is entirely of thatch and bamboo, there is no electricity, and few covered wells, so conditions in Loh Loe are certainly basic. But Mon community leaders and private relief workers (there are only three in camp on a full-time basis) say they are satisfied with the situation, if they are given a chance to stay put.

Once again, however, Thailand may have other plans. In the first two weeks of August, a district official in Sangklaburi suggested that some of the Mon in Loh Loe might prefer to return to Three Pagodas Pass and even sent a fleet of boats upriver to escort them back. No one showed.

On August 21, the Thai Border Police Patrol (BPP) began building barracks to post 20 policemen inside Loh Loe camp. Previously, the BPP had maintained a checkpoint midway between the camp and Sangklaburi to monitor (and "tax") the movement of camp residents in and out of town. There is worry among some Mon leaders that the border police may be used to force, or at least frighten, the refugees back to Three Pagodas Pass.

"It is sure that no one will go back to Three Pagodas Pass right now except by force," said Nai Tin Aung, chairman of the Mon National Relief Committee. "The presence of the Burmese army is not acceptable to the Mon people. It is the goal of the Burmese military junta and the Thai government to make Three Pagodas Pass a booming border town again. But if the Mon people don't go back, this goal would not materialize."

"We would like to see some of the Mon move back to Three Pagodas Pass," confirmed Prapakorn Smiti, deputy director of the Thai Ministry of Interior's Operations Center for Displaced Persons. "If the Thai side and the Myanmar [the Burmese military government's new name for Burma] side can be persuaded to keep away from the area, then we can create some safety there."

Prapakorn said the move would affect only about "three to five percent" of the Loh Loe population, who had arrived prior to the Burmese army crackdown on pro-democracy demonstration in 1988. Unlike the later arrivals, the pre-1988 Mon have at least temporary Thai registration papers. "If this old group mixes with the new groups, intermarries, etc., then there may be trouble" separating them back out again in the future, said Prapakorn.

He discounted the fears that the border police in Loh Loe would be used to force people back to Three Pagodas Pass. They had another purpose: "We want them there to deter new arrivals."

Burmese Deportees Dropped on the Mon In addition to the estimated 70,000 Burmese refugees living in designated encampments along the border, there are several hundred thousand Burmese "illegal immigrants" in Thailand, who are subject to arrest, detention, and deportation. Under pressure from the international community to protect at least pro-democracy students and the embattled ethnic minorities--and facing equal pressure from the Burmese regime to maintain a cordial, normal relationship--Thailand has implemented a deportation policy for Burmese arrivals whose only constant is its capriciousness.

Some of the deportees are taken south to Ranong, some northwest to Mae Sot, some are handed over to the Burmese army, and some are simply dropped along the border in areas controlled by the Burmese ethnic minorities.

From April to July 1992, Thai officials handed over more than 1,000 deportees, many of them Muslims from Burma's eastern regions, to the Mon National Relief Committee in Sangklaburi who then take them to Loh Loe. Medical workers in the camp report that significant numbers have required treatment for *beri beri* (acute malnutrition caused by the lack of Vitamin B1), skin diseases, head wounds, and sexually transmitted diseases.

While it is not always clear where and how some of these conditions came about, interviews with some of the deportees point to appalling conditions in Bangkok's Immigration Detention Center (IDC), also known as Suan Phlu.

"In my township," said Gan Ey, a 22- year-old man from Tavoy, "there was little work, and the Burmese army wanted a lot of porters." He crossed into Thailand illegally and cut bamboo for eight months before he was caught trying to go to Bangkok. He stayed in the IDC two and a half months before he was deported. When he arrived in Loh Loe, a nurse reported, he could not move his fingers or feed himself. After two weeks of treatment for *beri berii* in the hospital, he still was emaciated and too weak to stand.

"In the jail," he said through a Mon interpreter, "there were 50 men in a room 5 meters by 15 meters. There was no separate toilet or washroom. We got dirty water for drinking and two meals per day of rice and a little soup. We were beaten often and ruthlessly. My sickness happened 15 days before I left the jail."

Asked what he planned to do next, Gan Ey said, "When I get well, I will go back to Burma. It is better there than in Thailand."

Gan Ey may have been one of the luckier ones. In August, Thai immigration officials took a group of about 200 Muslims and handed them over to the Burmese army in Three Pagodas Pass where some of the more able-bodied reportedly were pressed into service as porters.

UNHCR on the Border: "So Far We Have Done Nothing" The Mon are cautious in appraising Thai policies on the border; despite their worries about the BPP and Three Pagodas Pass, Loh Loe and the other camps are safe and functioning, and the threat of repatriation remains largely just that. But they would feel much better, said Nai Tin Aung, "if we had status from the UN."

"That is a very complicated story," said an official with the UN High Commissioner for Refugees (UNHCR) in Bangkok, who declined to be identified. "The Thai government is not signatory to the *Convention* and *Protocol*, and we are here strictly with their tolerance. Legally, there is not much to fall back on."

UNHCR has been permitted to interview about 4,700 Burmese asylum seekers in Bangkok, most of them students. Of those interviewed, UNHCR has recognized 2,218 as "persons of concern" and provided them with a monthly stipend for assistance. Another 1,707 have been rejected, and the remaining cases either have been closed or are still pending interview.

UNHCR has protested deportations that involved "persons of concern," the official said, but regarding the rest of the Burmese population in Thailand, "we have not made any interventions." As for the deportations, the official said, "The key question is: are there any asylum seekers in this group? If they don't claim asylum, we cannot assess their reasons for being in Thailand."

In terms of UNHCR involvement with the ethnic minority groups in Thailand, the official said, "So far, we have done nothing. We don't have a role there. We've been trying to send people on missions, and we will try to monitor the border situation more closely, but we don't really have staff for that area."

And if the dry season brings in perhaps 20,000 to 50,000 more Burmese refugees into Thailand, as some seasoned relief workers expect it to do? "Clearly," the official said, "the High Commissioner [Mrs. Sadako Ogata] has to make some decision on this."

Resources

ABUSES REPORTED ON U.S.-MEXICO BORDER

The American Friends Service Committee (AFSC) and Americas Watch have each recently published reports on abuses committed by law enforcement agencies during the enforcement of immigration laws along the U.S.-Mexico border.

The AFSC report (its third on the subject), *Sealing Our Borders: The Human Toll*, covering the period from May 1989 To May 1991, finds the U.S. Border Patrol to be responsible for the greatest number of alleged abuses by law enforcement agencies. The report recognizes that "Agents must be prepared to face real danger, even when their first mandate is to detain mostly unarmed immigrants."

The war on drugs, says the report, has resulted in a militarization of the border that has significantly raised the level of tension and violence. "The involvement of the Border Patrol in drug interdiction injects a higher level of paramilitary readiness in immigration control at the border and confuses the Border Patrol's mandate."

The AFSC's Immigration Law Enforcement Monitoring Project concentrates on five areas: San Diego, Southern Arizona, El Paso, the Lower Rio Grande Valley, and south Florida. During the time period of the current study, 392 persons reported 1,274 abuses. The most frequently cited category, 360 cases (28.3 percent), was verbal/ psychological, followed by physical abuse (285 cases, 22.4 percent). Illegal searches and seizures and denial of due process were also alleged.

One of the testimonies on verbal abuse appears to be a coerced signing of a voluntary departure form for a Salvadoran woman apprehended at the Harlingen, Texas airport, a direct violation of the *Orantes-Hernandez* order (see *Refugee Reports*, Vol. XII, No. 1):

"Two men approached me, showed me an I.D. from Immigration and asked me where I was from. When I answered El Salvador, they told me to be seated.... The men told me to sit and sign a paper I did not want to sign. They threatened me.... During this time I was very upset and crying. The other official said he would get me to sign at gunpoint. I asked him to please explain what I was signing.... They mistreated me, told me to be quiet, and used abusive language.... This upset me even more, because I do not like anyone speaking ill of my mother. I then signed, since he had threatened me to sign at gunpoint and I was frightened."

Of the five areas surveyed, the most frequently alleged physical and verbal abuses came from San Diego. Miami led all areas in the number of alleged illegal searches and seizures.

The 64-page report, *Sealing Our Border*, is available for $2.50 from Literature Resources, AFSC, 1501 Cherry St., Philadelphia, PA 19102.

Abuses Routine, Says Watch Committee The Americas Watch report, *Brutality Unchecked: Human Rights along the U.S. Border with Mexico*, charges that "beatings, rough physical treatment, and racially motivated verbal abuse are routine. Even more serious abuses, including unjustified shootings, torture, and sexual abuse, occur. When they do, investigations are almost invariably perfunctory, and the offending agents escape punishment."

In addition to documenting many instances of abuse, the Americas Watch report charges that the Immigration and Naturalization Service shows a persistent lack of responsiveness to complaints about misconduct. The report criticizes the agency for its "willingness to cover up or defend almost any form of egregious conduct by its agents."

Americas Watch, which reports on human rights abuses throughout the hemisphere, noted, "The human rights abuses reported here are similar in kind and severity to those about which we have reported in many other countries. Moreover, the response of the U.S. government is as defensive and unyielding as the responses of many of the most abusive governments."

Brutality Unchecked is available for $7.00 from the Publications Department, Human Rights Watch, 485 Fifth Avenue, New York, NY 10036.

GUIDE TO ASSISTING AND EMPOWERING REFUGEE WOMEN PUBLISHED

A familiar statistic in the refugee field states that approximately 80 percent of the world's refugees are women and children. This statistic, which is in danger of being rendered trite through its overuse, does not in anyway reveal what the needs of refugee women and their children are, nor does it indicate what resources refugee women possess.

In *Refugee Women*, Susan Forbes Martin, director of Policy Research and Programs at the Refugee Policy Group, goes beyond statistics to provide a general overview of the situations of refugees and displaced persons while focusing on the particular concerns and capabilities of refugee women. Intended as a resource "to improve people's understanding of the situation of refugee and displaced women, and to develop programs, campaigns and strategies which genuinely respond to needs...," this accessible but comprehensive book surveys what actions have been taken on behalf of refugee women and what still remains to be done.

Forbes Martin offers more than statistics because, as she points out, there are serious inadequacies in demographic information about refugees. Some of the more problematic flaws mentioned were the overall inaccuracy of statistics, the lack of disaggregated information regarding women, and the failure to complete location-specific analysis. She says appropriate women-centered policy cannot be formulated nor can necessary programs be implemented if policy is based on insufficient data or if there is an overgeneralization of the needs of refugee women.

What Forbes Martin does is address the main issues confronting refugee women. Of particular interest are the discussions of how altered social roles affect refugee women, what the interplay between refugee women and assistance programs is and should be, and what part women need to play in development programs. Most chapters offer a section entitled "Steps To be Taken" with imperatives suggesting how organizations, institutions and governments can increase responsiveness to refugee women. Many chapters include summaries of innovative projects that have served to meet the needs of refugee women or have resulted from the leadership and contributions of refugee women. Forbes Martin also includes evaluations of initiatives taken by the United Nations and nongovernmental organizations concerned with refugee women.

In annexes to the text, Forbes Martin includes suggestions for activities to increase awareness of women refugee issues. She also provides relevant United Nations documents and a directory of international organizations.

Refugee Women is an important resource for those concerned with the situations and capabilities of women refugees. It is also a good primer for anyone interested in the issues of refugees and the internally displaced. The book is one in a series developed by the Joint UN/NGO Group on Women and Development. Details on the series, Women and World Development, or on how to obtain *Refugee Women*, are available from Zed Books LTD, 57 Caledonian Road, London N1 9BU, UK or 165 First Avenue, Atlantic Highlands, New Jersey 07716.

BREAD FOR THE WORLD INSTITUTE PUBLISHES REPORT ON WORLD HUNGER

Bread for the World Institute on Hunger and Development has issued its third annual report on the state of world hunger. The report, *Hunger 1993: Uprooted People*, examines hunger among refugees and internally displaced people who have been driven from homes, land, livelihood, and regular supplies of food.

Writers include recognized experts in the field such as Robert Chen, Charles Keely, Sima Wali, Jodi Jacobson, Jason Clay, Larry Minear, Jo Marie Griesgraber, and staff of both the U.S. Committee for Refugees and Bread for the World Institute.

Hunger 1993 will be useful to concerned citizens, the religious community, secondary school and college teachers, and policy makers. The report is available for $12.95, plus $3.00 for shipping. A *Study Aid* is also available for $3.00. To order, contact Bread for the World Institute on Hunger and Development , 802 Rhode Island Ave., NE, Washington, DC 20018. Phone: (202) 269-0200, Fax: (202) 529-8546.

CIPRA REPORTS ON CENTRAL AMERICAN REFUGEES

The Hemispheric Migration Project of Georgetown University's Center for Immigration Policy and Refugee Assistance has published three new reports on issues concerning Central American refugees. *Reintegration of Nicaraguan Refugees and Internally Displaced Persons* addresses the economic and social conditions for repatriation, security concerns, and emerging power structures in communities of return. *CIREFCA, The Promises and Reality of the International Conference on Central American Refugees* describes the objectives, process, achievements, and shortcomings of CIREFCA. *Undocumented and Illegal in Central America* focuses on the dynamics of displacement, and protection and assistance issues.

For information on ordering these reports contact: Hemispheric Migration Project, CIPRA, Georgetown University, PO Box 2298-Hoya Station, Washington, D.C. 20057-1011. (202) 298-0213.

THE PLATFORM VIETNAMESE

The U.S. Catholic Conference has issued a new report on the situation of the so-called "platform Vietnamese," a group of Vietnamese refugees who arrived in Thailand by land prior to June 1989 and have been caught in a bureaucratic tangle that has prevented them from being resettled.

The Platform Vietnamese: A Matter of Humanity and Justice is available from Migration and Refugee Services, 3211 4th Street, N.E., Washington, D.C. 20017. (202) 541-3234.

AFGHAN REPATRIATION

Since the fall of the Soviet-installed Najibullah regime in Kabul this April, a rapidly increasing number of Afghan refugees are repatriating from Pakistan. In a paper on Afghan repatriation issued just after Najibullah's fall, the Refugee Policy Group says, "While recognizing the pitfalls in the current use of humanitarian assistance in Afghanistan, the international community must find pragmatic approaches that will give the Afghan people options for resuming normal lives.... And, most important, humanitarian assistance must be designed to support long-term peace."

For information on ordering *Afghanistan: Trends and Prospects for Refugee Repatriation* contact the Refugee Policy Group, 1424 16th Street N.W., Suite 401, Washington, D.C. 20036. (202) 387-3015.

SITE 2: BEYOND THE KILLING FIELDS

The press release for *Beyond the Killing Fields*, a photographic journal of life in Site 2, a camp for Cambodian refugees in Thailand, says, "Through the eyes of the refugees, the experiences of daily life unfold in a world of stubborn dreams and mind-dulling routine. Theirs is a camp where muffled booms of artillery shells echo in the distance, and where even the strongest spirits can shatter."

Beyond the Killing Fields is published in hardcover ($39.95) and paperback ($29.95) by Aperture, 20 East 23rd Street, New York, NY 10010. (212) 505-5555.

BURMA: THE NEXT KILLING FIELDS?

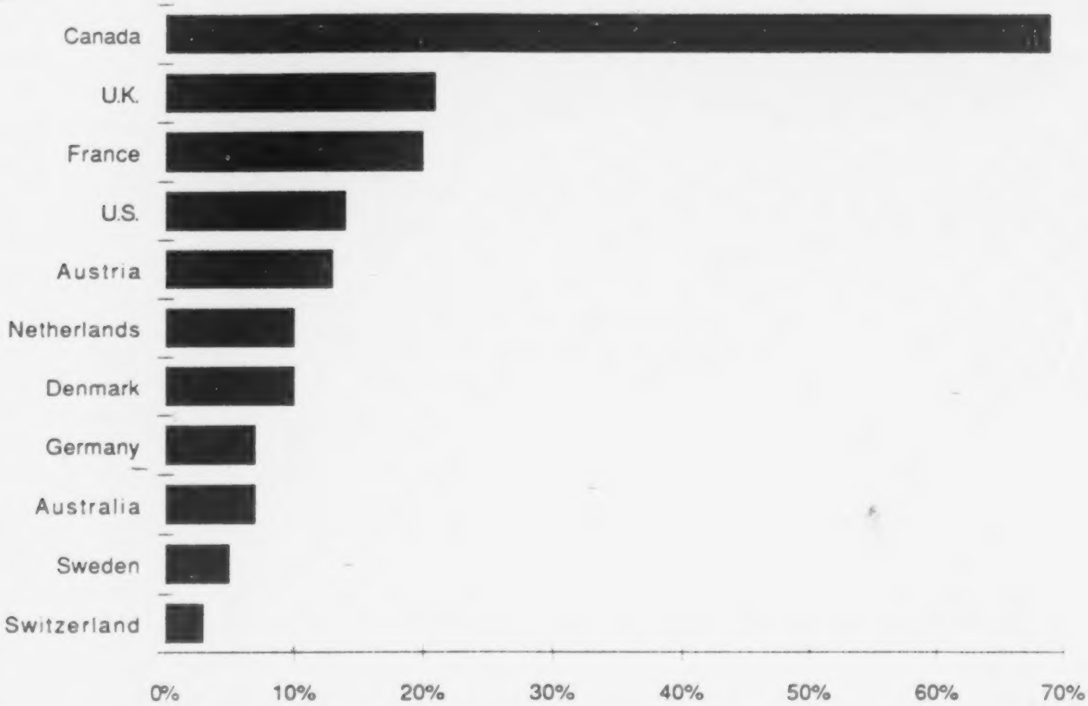
The same atrocities once committed in Cambodia are now taking place in Burma, says a new book by Alan Clements, director of The Burma Project USA. Clements, who previously lived in Burma for seven years, made two recent trips to Burma to interview a wide range of Burmese regarding political developments and human rights conditions since the pro-Democracy movement, and the effects of those developments on the Burmese people.

Burma: The Next Killing Fields? is available for $5.00 from: Odonian Press, Box 7776, Berkeley, CA 94707. (510) 524-3143.

Job Board

Project Director, Race and Ethnic Relations
The National Immigration, Refugee and Citizenship Forum seeks a Washington, DC-based project director to implement a new project that will identify, describe, catalogue, and publicize initiatives and projects that bring together newcomers and established residents in a way that reduces biases and tensions and builds community. Duties include: developing a detailed workplan for the project; determining which metropolitan areas will be canvassed; conducting phone interviews and site visits; and writing a catalogue and distributing it in final form. Requires Masters Degree in social sciences, strong interviewing and writing skills, research and evaluation experience, and willingness to travel extensively. Salary: $33,000 to $37,000. This position is currently open.
Contact Send cover letter, c.v., and three writing samples to Frank Sherry, Executive Director, National Forum, 220 Eye Street NE, Suite 220, Washington, DC 20002.

1991 ASYLUM APPROVAL RATES IN SELECTED COUNTRIES



Note: These statistics are provided by the Canadian Immigration and Refugee Board. They do not agree in all cases with statistics compiled by Refugee Reports. This could be because Canada is providing approval rates only for "full hearings."

REFUGEE REPORTS is published monthly for $40.00 per year for one subscription, $30.00 each for two or more subscriptions to the same addressee, or $25.00 each for ten or more subscriptions requested at the same time, mailed to separate addresses; overseas postage is an additional $24.00 for second class or an additional $75.00 for airmail; by ACNS, 95 Madison Avenue, Third Floor, New York, NY 10016. Second Class Postage paid at New York and additional mailing offices. POSTMASTER: send address changes to *Refugee Reports*, Sunbelt Fulfillment Services, P.O. Box 41094, Nashville, TN 37204.

Editorial comments and inquiries should be sent to : *Refugee Reports*, 1025 Vermont Avenue NW, Suite 920, Washington, DC 20005. All communications regarding subscriptions should be sent to: *Refugee Reports* Subscriptions, Sunbelt Fulfillment Services, P.O. Box 41536, Nashville, TN 37204. (615) 377-3322.
Basic subscription rate for 12 issues per year: $40.00; Multiple-copy rate: $25.00; Single copies of back issues: $4.00
Co-Editors: Bill Frelick and Virginia Hamilton; Staff Writers: Court Robinson, Hiram A. Ruiz, Jeff Drumtra, Tom Argent, and Jacqueline Stromberg.
Distribution Manager: Raci Say; Production Coordinator: Koula Papanicolas
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Refugee Reports

A News Service of the U.S. Committee for Refugees, a Project of the American Council for Nationalities Service
Sunbelt Fulfillment Services
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